

**771**

## Site Allocations DPD: Regulation 19 Consultation Response

**Policy:** SA11

**ID:** 771

**Response Ref:** Reg19/771/1

**Respondent:** Ms V Colville

**Organisation:**

**On Behalf Of:**

**Category:** Resident

**Appear at Examination?** x

<b>Name</b>	valerie colville
<b>Address</b>	[REDACTED]
<b>Email</b>	[REDACTED]
<b>Which document are you commenting on?</b>	Site Allocations DPD
<b>OR Policies Map</b>	West of Crawley Down
<b>Do you consider the Site Allocations DPD is in accordance with legal and procedural requirements; including the duty to cooperate</b>	Yes
<b>(1) Positively prepared</b>	Unsound
<b>(2) Justified</b>	Unsound
<b>(3) Effective</b>	Unsound
<b>(4) Consistent with national policy</b>	Unsound

**Please outline why you either support or object (on legal or soundness grounds) to the Site Allocations DPD**

1. NOT Positively prepared in terms of meeting the housing and employment needs of the region.
  - The size and proposed rural location is completely out of proportion to the village of Crawley Down. Taking away 60 acres (25ha) of valuable agricultural land and woodland destined for 300 houses and associated facilities is not desirable or sustainable
  - Covid has decimated Gatwick as a local employer reducing the need for extra homes.
2. NOT Justified – when considered against the reasonable alternatives
  - The proposal conflicts with the Planning Objective of maintaining a rural break between urban areas of East Grinstead and Crawley-Gatwick
  - The proposal conflicts with the Planning Objective of maintaining a rural break between urban areas of East Grinstead and Crawley-Gatwick.
3. NOT Effective
  - The site is a steep slope which will cause flooding when covered with impermeable surfaces.
  - There is no mains drainage below the site. The small stream leading to the lakes at Rowfant House will be flooded.
  - Our lane (accessing 6 houses) will be particularly affected by this development. Its access sits at the bottom of the field below the development and all this water will flood down towards the start of the lane. We already have regular problems with floods there. Heavy rain already regularly overwhelms the sewerage plants up Wallage Lane (South) causing pollution and unpleasant odour. Makes access very dangerous also
4. NOT Consistent with national policy
  - The fields and woods are precious attributes of the SE Region's environment.
  - Rural urbanization threatens long-established residences, environs, privacy, security, and enjoyment, especially from the County Council's Worth Way.
  - The proposal conflicts with the Planning Objective of maintaining a rural break between urban areas of East Grinstead and Crawley-Gat

**If you wish to provide further documentation to support your response, you can upload it here**

**If your representation is seeking a change, do you consider it necessary to attend and give evidence at the hearing part of the examination**

No, I do not wish to participate at the oral examination

<b>Please notify me when-The Plan has been submitted for Examination</b>	yes
<b>Please notify me when-The publication of the recommendations from the Examination</b>	yes
<b>Please notify me when-The Site Allocations DPD is adopted</b>	yes
<b>Date</b>	27/09/2020



## Site Allocations DPD: Regulation 19 Consultation Response

**Policy:** SA11

**ID:** 775

**Response Ref:** Reg19/775/5

**Respondent:** Ms K Castle

**Organisation:** Batcheller Monkhouse

**On Behalf Of:** Griffiths Family

**Category:** Developer

**Appear at Examination?** ✓

**From:** Kirsty Castle <K.Castle@batchellermonkhouse.com>  
**Sent:** 28 September 2020 15:43  
**To:** ldfconsultation  
**Subject:** REGULATION 19 CONSULTATION MID SUSSEX DISTRICT COUNCIL – DRAFT SUBMISSION SITE ALLOCATIONS DPD  
**Attachments:** 2020-09-28 Reg19 Reps - Final.pdf; Apendix 1 RegisterPlanWSX381300 Jeffreys Farm Gifted HMG SJG THJG PWMG.pdf; Appendix 2 Covenant.pdf; Appendix 3 Counsel opinion on Front field covenant.pdf; Appendix 4 GTA civils access to farm buildings March 2020.pdf; Appendix 5 AONB Challenge.pdf; Appendix 6 Response to AONB Challenge.pdf; site-allocations-consultation-form - DPD General.doc; site-allocations-consultation-form - Evidence Base Site Selection Paper 3.doc; site-allocations-consultation-form - SA11.doc; site-allocations-consultation-form - SA28.doc; site-allocations-consultation-form - SA29.doc

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**Categories:** TBC

Dear Sir/Madam

Please find attached representations made on behalf of The Griffiths Family in response to the Regulation 19 Consultation. I would be grateful if you could please confirm receipt.

Many thanks and regards

Kirsty Castle MRTPI AIEMA | Partner



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28 September 2020  
Our Ref PL010-327/KAC

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Dear Sir/Madam

## REGULATION 19 CONSULTATION MID SUSSEX DISTRICT COUNCIL – DRAFT SUBMISSION SITE ALLOCATIONS DPD

I write on behalf of the Griffiths Family owners of land at Jeffreys Farm, Lewes Road, Horsted Keynes, RH17 7DY. The family have consistently promoted three land parcels in and around the farm through the Local Plan process. The sites were assessed in the SHELAA which was reported on in September 2018 and have been assessed again in the Site Selection Paper 3 which is included in the evidence base section of the current submission version of the Site Allocation DPD. The three sites are identified in the Site Selection Paper 3 Proformas as:

- Site 68: Existing farm buildings at Jeffreys Farm
- Site 69: Land at Jeffreys Farm (Fields to North of farm buildings)
- Site 971: Land at Jeffreys Farm (Fields to South of farm buildings)

It is noted that Site Allocations DPD does not seek to identify any of the above sites as suitable housing development allocations, yet they are suitable, sustainable, deliverable and developable. The representations made within this letter seek to focus upon the accuracy of the Council's assessment of each of the above sites and whether the Site Allocations DPD has been prepared in a manner that would meet the tests of soundness set out in the NPPF.

A significant change in circumstances since the previous representations is that Gleeson Strategic Land Ltd, have agreed terms with the landowners to enter into a Promotion Agreement across Sites 68 and 69. Gleeson Strategic Land Ltd has a proven track record of delivering high quality residential development within the Mid Sussex District. Further representations are being made by Dr H Griffiths and Gleeson independently in respect of all three sites to which my commentary refers where appropriate.

### Chartered Surveyors & Town Planners

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## Accuracy of Assessment of Sites 68, 69 and 971

### Evidence Base – Site Selection Paper 3

#### Access

Sites 68, 69 and 971 are identified in the site selection paper 3 as not being considered further following detailed assessment. The detailed assessment is set out in the proforma for each site contained at Appendix B of the Site Selection Paper 3. Site 68 and 971 are assessed as not being able to achieve suitable access. This is because the Council consider that a suitable form of access is unlikely to be achievable given potential conflict with the existing junction opposite in creating a crossroad and the ability to achieve adequate visibility.

In this regard we would highlight the fact that the Griffiths family own the track to Jeffreys Farm. This can be seen on the land registry documents WSX381300 attached as **Appendix 1**. The Griffiths Family also own the land either side of the track including the 'Front Field' to the north of the track as shown. There is a covenant on the 'Front Field' that requires the family to *'not erect a building of any type.... with the exception of a sports pavilion'*. This covenant is documented on the land registry documents for the 'Farmhouse, Jeffreys Farm' which are submitted as **Appendix 2**. The beneficiary of the covenant is the owner the Farmhouse (Mr and Mrs Vince, formerly Parish Cllr Vince). They do not own the field; they merely have the benefit of the covenant that is attached to the property they own. The Griffiths Family have sought Counsel's opinion on the implications of this covenant, the conclusion being that *'the construction of an access road across (the land) ... would not constitute the erection of a building within the meaning of the covenant'*. A copy of the legal opinion is produced as **Appendix 3** to this letter.

On the strength of the above it is very clear to see that the landowner controls all of the land necessary to provide visibility to a required standard to allow the access to operate safely. Furthermore, the site access drawing submitted at **Appendix 4** of this letter provides substantial evidence that visibility can indeed be achieved at the access, with land in the Griffiths family ownership available to ensure this. Pine trees to the north of the existing access are in a poor state, with storm damage, and they overhang the road precariously, so will have a finite lifespan. In addition a large sycamore just to the north of the farm track, that was considered to be an obstacle to suitable visibility has also been removed due to dry rot, thus increasing the existing visibility and the ability to provide better access.

The site assessments undertaken for sites 68 and 971 are based on inaccurate information and are therefore flawed in respect of their conclusions on access. The Jeffreys Farm sites are accessible given adequate visibility can be secured and all of the land is within the Griffiths Family's ownership to do so.

Notwithstanding this, a safe alternative access can also be provided to both sites 68 and 69 within the Griffiths Family land ownership as has been proposed in two prior planning applications on the sites (DM/19/0957 and DM/16/3974). On both occasions this alternative access was supported by West Sussex County Council as the Highway Authority. The application documentation can be made available again to the Inspector should they request it and can be viewed on the Council's online planning application files.

It is patently clear that sites 68, and 971 and site 69 for that matter are all capable of being accessed via a safe access route and 68 and 971 in particular do not warrant the conclusion that a suitable and safe access cannot be achieved.

#### Sustainability

The representations submitted by Dr H Griffiths make significant assessment of the location of each of the sites in terms of their relative proximity to the services and facilities found in the village at Horsted

Keynes. Detailed analysis of each of the sites indicates each to be located in closer proximity than is being identified in the detailed assessment proformas. These representations were also made at Regulation 18 stage, however if these have been considered by the Council, there is no reflection of this in either the site assessment or scoring. We would therefore conclude that each of the above sites presents an accessible and sustainable development option and should have been assessed more favourably than is set out in the assessment.

Furthermore, with particular regard to site 68, this site scores highly in every aspect except for conclusions about access which we have detailed above to be incorrect and the perceived unsustainability of location. However we would strongly suggest that the proximity to services and facilities is in fact lower than is detailed in the site assessment and in view of the higher scores in every other respect this site should have been a stronger contender for development. Site 68 should have been considered as a reasonable alternative and is ideally suited to fill the deficit of 15 houses for Horsted Keynes meaning that the village meets its requirement and other surrounding villages do not have to provide additionally.

### AONB Impact

The Site Assessments draw on advice and guidance provided by the High Weald AONB Unit with which to assess the impact of development upon the AONB. With regard to site 69 and 971 where the reason for not being taken forward for detailed assessment is the impact of development upon the AONB, there is fundamental concern about the way in which each site has been assessed and the inconsistency in the methodology applied to these sites compared to others assessed in Horsted Keynes. The representations made by Dr H Griffiths set out in detail the inconsistencies found which have been put to the High Weald AONB Unit as a formal challenge to their assessment. The content of that challenge is included as **Appendix 5** of this letter along with the response received from the High Weald AONB Unit at **Appendix 6**. The representations made by Dr H Griffiths are supported and corroborated by a Landscape and Visual Impact Assessment which was prepared as part of a previous application for development of sites 68 and 69 (Application reference DM/16/3974). This can be made available to the Inspector should they wish and is otherwise publicly available from the Council's online planning records. The representation made to the AONB unit as set out in Appendix 5 were submitted as part Dr H Griffiths Regulation 18 consultation representations although as previously detailed, if consideration has been made, it is not reflected in the assessments or site allocation choices.

It is clear that the assessment undertaken by the AONB unit was a desktop analysis and was not based upon having visited the sites to gain any understanding or any physical appreciation of their context and surroundings. The challenge document sent to the AONB Unit (**Appendix 5**) describes in detail the evidence that sites 69 and 971 have little visual impact on the AONB and could be fully mitigated through careful landscaping, a detailed examination of which is set out in Dr H Griffiths' representations. The AONB Unit's response to the challenge is set out at **Appendix 6** of this letter but does not substantially answer the matters raised or provide credible reasons for the inequity of assessment between sites.

Whilst it is appreciated that the High Weald AONB Unit's role is primarily advisory, many of the conclusions they have drawn are reflected in the site assessment of sites 69 and 971 and are used to directly inform the assessments included in the Site Selection Paper 3. The detailed examination of the AONB impact set out in the documents at **Appendix 5** to this letter indicates that further attention must be paid to justifying the conclusion of "high impact" in the AONB for sites 69 and 971. This was raised at Regulation 18 stage of the process and no further dialogue has been offered by Mid Sussex DC in respect of this. The assessment of "high impact" has been carried through to Regulation 19 Submission stage with no recognition of the flaws in the High Weald AONB unit's assessment having been examined. We therefore dispute the basis upon which the site assessments for sites 69 and 971 have been made with regard to AONB impact and would suggest that there would be no conflict with Sustainability Appraisal

objective 9 relating to the protection of the countryside and protection of designated landscapes for these sites.

### Deliverability

Sites 68, 69 will shortly be controlled under a Promotion Agreement with established land promoter Gleeson Strategic Land Ltd. Gleeson has an excellent track record in delivering small, medium and large-scale housing sites across the country, including land and sites within Mid Sussex District. Gleeson are experienced land promoters who have local knowledge gained through working closely with Mid Sussex District Council to bring forward other development sites within the district. With Gleeson's forthcoming involvement, the deliverability of the land at Jeffreys Farm at sites 68 and 69 is assured. Whilst the site assessments indicate each of these sites has a "Reasonable prospect of development" we consider this should be amended to "Developable" in the same ways as other sites under the control of a housebuilder are scored. With regard to Site 971, the land offers a realistic development prospect albeit on a longer-term deliverability.

### **IS THE DRAFT SUBMISSION SITE ALLOCATIONS DPD SOUND?**

The four tests of soundness to be applied to examination of local plan DPDs and strategic frameworks are set out at para 35 of the NPPF. These are:

**Positively prepared** – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development.

**Justified** – the plan should be the most appropriate strategy when considered against the reasonable alternatives based on proportionate evidence

**Effective** – The plan should be deliverable over its period and based on effective joint working on cross boundary strategic priorities; and

**Consistent with National Policy** – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.

### **Test 1 – Positively Prepared**

#### **Draft Submission Site Allocations DPD - Policy SA11 Additional Housing Allocations**

The Mid Sussex District Plan was formally adopted in 2018 and provides a strategic framework for growth in Mid Sussex to 2031, including identifying the level of housing need in the District and the spatial strategy by which this growth will be distributed.

Policy DP4 Housing sets a minimum housing provision figure of 16,390 homes over the period 2014 – 2031 to meet the Council's Objectively Assessed Needs (OAN) as well as contributing towards the unmet need of neighbouring authorities, primarily the unmet need arising in the Northern West Sussex Housing Market Area from Crawley.

The supporting text for the policy indicates The District Council will prepare a Site Allocations Development Plan Document (DPD). This will allocate non-strategic and strategic sites of any size over 5 dwellings (with no upper limit), in order to meet the remaining housing requirement over the rest of the Plan period as reflected in the 'stepped trajectory' of 876dpa until 2023/24 and 1,090dpa thereafter, and

with the aim of maintaining a 5-year land supply to meet this requirement. The Site Allocations DPD confirms that there is a residual housing requirement of 1,280 dwellings to be met through the Site Allocations DPD.

Policy DP6 of the District Plan identifies Horsted Keynes as a Category 3 settlement and indicates that Horsted Keynes will be required to provide a minimum of 69 dwellings over the plan period but with completions and commitments at April 2017 this minimum requirement was 53 dwellings. An updated picture is provided in the Sustainability Appraisal for the Site Allocations DPD at Table 12 which confirms that the residual requirement for Horsted Keynes is 70 dwellings, taking into account commitments and completions as of April 2020.

The Site Allocations DPD allocates two sites in Horsted Keynes to deliver 55 dwellings collectively. Given the above, this leaves an additional 15 dwellings required to meet the identified residual requirement for the village over the plan period. The NPPF states that the planning system should be genuinely plan led and as part of this should positively identify sufficient housing to meet its objectively assessed needs. The Site Allocations DPD does not identify sufficient housing to meet all of the identified need for Horsted Keynes and there is therefore a need to reconsider the site assessments undertaken to date to find a further 15 dwellings.

As detailed in the paragraphs above and in the extensive representations made by Dr H Griffiths in respect of Sites 68, 69 and 971, each of these sites offers a sustainable location for development, can demonstrably be shown to have moderate or low impact on the AONB and wider landscape and can provide safe access to the main highway network. Each of the sites promoted could provide the additional 15 dwellings required in a sustainable manner.

The NPPF requires Local Authorities to identify housing supply that offers specific sites that are deliverable in the first 5 years and specific sites that are developable for years 6-10 and where possible years 11-15. To be considered deliverable a site must be available now, offer a suitable location for development now and be achievable with a realistic prospect that housing will be delivered on the site within five years. Given the level of detail in previous planning applications submitted (DM/19/0957 and DM/16/3974), and now with Gleeson's forthcoming involvement, Sites 68 and 69 can be delivered immediately whilst site 971 offers a realistic future development prospect.

The sites at Jeffreys Farm are demonstrably in a suitable location, adjacent to the settlement boundary and within walking distance of the village centre. Analysis contained in Dr H Griffiths representations shows each of the sites to be closer to the village centre and facilities than is detailed in the site assessments. The impact of development of these sites on the AONB is in part overplayed and as detailed it is considered entirely possible to mitigate any effects entirely through an appropriate landscape strategy which maximises views from the settlement into the countryside and wider AONB, whilst providing an integral and soft urban edge to the settlement that blends appropriately with the rural setting of village. The site has direct access onto Sugar Lane which is shown to be capable of being modified to ensure adequate visibility with the opportunity to create an alternative access point which performs equally well in terms of safe operation.

The sites score positively when assessed against the requirements of policy DP15 of the District Plan which seeks to govern the scale and type of development that occurs outside of the defined settlement boundaries. Each of the sites could provide for up to 15 dwellings and are contiguous with the built-up area of the village. Contrary to the site assessment prepared, Site 971 is not detached from any existing part of the settlement but directly abuts the rear curtilage boundary of existing dwellings along Treemains Road. None of the sites at Jeffreys Farm would exacerbate or otherwise impact on the dispersed nature of development alleged on the western side of Sugar Lane and all can be shown to be sustainable.



Sites 68 and 69 are available for development now (as demonstrated by previous planning applications) and with the forthcoming involvement of Gleeson Strategic Land, there is a more than reasonable prospect that development will come forward within the next five years. Sites 69 and 971 are currently undeveloped, in a single ownership and do not have any existing uses or activities to relocate. Site 68 is already developed and retains a number of existing farm buildings but are also in a single ownership and could be vacated at any point. The sites promoted at Jeffreys Farm all offer a viable option for development and meet the criteria of being “deliverable” as well as “developable” as required of sites identified for the early to medium stages of the plan period.

In summary we consider that Site Allocations DPD has not been positively prepared. Policy SA11 does not identify enough housing to meet the full requirement for Horsted Keynes across the plan period and there is a need to reconsider sites which were not put through to detailed assessment such as the sites at Jeffreys Farm, not only in light of the above detailed inaccuracies in the assessments but as a means of providing alternative sustainable locations to meet the shortfall in requirement which is now apparent.

## **Test 2 – Justified**

### **Evidence Base - Site Selection Paper 3**

The Site Selection Paper 3 details the process of assessment undertaken in arriving at the proposed allocations set out in the Site Allocations DPD. This essentially comprised a three-stage selection process:

Stage 1: Call for sites to inform SHELAA – This established the pool of site to assess

Stage 2: High Level Site Assessment – Sites more than 150m from settlement boundary and capable of providing significantly more housing than accounted for in the District Plan were ruled out.

Stage 3: Detailed Assessment – traffic light scoring methodology used to assess sites against primary planning constraints. Any sites with a red score against any identified planning constraints were ruled out.

With regard to the appropriateness of the methodology for assessing sites, we have concerns that the Stage 3 Detailed Assessments did not display a thorough balancing exercise covering all planning constraints. In ruling out sites automatically on the strength of a low score in one area means that the potential benefits and much higher scores against other planning merits are not considered in any comparative way and any judgement about whether the low scores might be outweighed by the higher scores on different areas is simply not made or any means of mitigating the low scores. Just because one site falls down in one area does not mean that the other benefits and attributes that it displays as a development site do not outweigh that. It is therefore our view that the methodology undertaken to site selection does not demonstrate a thorough consideration of the pros and cons of each site in the round with no evidence of any weighting having been undertaken in the Council’s final decision. If no weighting has been undertaken it cannot be reliably contended that the Site Allocations proposed are the most suitable when considered against reasonable alternatives. Mitigation of any negative points has been fully considered for the sites that have been allocated and other sites assessed in Horsted Keynes but there is no consideration of mitigation for the sites at Jeffery’s Farm.

### **Draft Submission Site Allocations DPD - Policy SA28 and SA29**

The two sites advanced as proposed site allocations in Horsed Keynes are Site 807 Land south of The Old Police House site (Policy SA28) and Site 184 Land south of St Stephens Church (Policy SA29)

Policy SA28 Site 807 would require the removal of the hedge line and possibly some mature trees to gain visibility splays and access to the site along Birch Grove Road' which would have direct impact upon the AONB and of views into the site. The site assessment concludes the site as having a moderate impact on the AONB despite stating in the assessment text that there is a high impact on the AONB due to loss of medieval fields and the development being too isolated and separate from the existing village core. There is nothing further stated in the assessment which would counter this statement and no justification for why conclusion of moderate and not severe impact is concluded. Given that a conclusion of severe impact on the AONB alone would have ruled this site out of the assessments we consider it essential for there to have been greater explanation and justification for the conclusions drawn in this respect.

The site assessment concludes that there would be less than substantial harm to listed buildings through developing Site 807. However, Grade II-listed Lucas Farm is located immediately to the north of the site and is not screened from the site by any retained vegetation nor do the promoters plans indicate mitigation to that effect. Given the proximity of the site to this local Heritage Asset and lack of any apparent respect to its setting, it is not understood why the site scores as having such a low impact – again there is no justification provided for the conclusion drawn.

We therefore consider that Policy SA28 of the Site Allocations DPD is not justified

Policy SA29 Site 184 is considered to be reasonably well related to the existing built up area of Horsted Keynes with low potential harm to the AONB. However, when comparing this site with Site 971 in particular at Jeffreys Farm, it is clear that the two sites present the same position, immediately abutting the rear curtilage boundary of existing properties within the settlement boundary. Site 971 is deemed to be detached from the existing built up part of the village whereas Site 184 is deemed to be relatively well related.

Policy SA29 Site 184 is considered to be in no better location in terms of proximity to services and facilities to any of the Jeffreys Farm sites particularly when taking account of the detailed examination set out in Dr H Griffiths representations of true walking distances.

The site assessment states that there are no issues with site access, and that 'Access to site 184 can be achieved. However, we are aware that the developer promoting this site has openly stated that there will need to be a 5-metre protection zone adjacent to the mature trees along the western edge of the access track, to protect and retain the distinctive tree line. Given that the access track is only 7m wide currently and that land to the east is not in the developers ownership it would seem that there is some question as to whether access to the site can indeed be achieved satisfactorily for two way traffic or that adequate visibility can indeed be achieved. In order to provide an access road capable of allowing the traffic movements associated with 30 dwellings without damage to the tree root system will require the access to be moved to the east. This is not achievable as the land is in third party ownership, and therefore this mitigation is impossible. The developers proposed plans show the access road clearly to be within 1.5m of the tree trunks.

This information has been discussed in public meetings and the Council are aware of this. The matter was raised in our previous Regulation 18 representations but has not been considered further within the Regulation 19 Draft Submission version of the document.

In view of the above information relating to the width of the access, it is contended that Site 184 should have been assessed as having a severe impact against the access planning constraint which would have ruled this site out automatically using the Council's chosen methodology. The site assessment says that there are no constraints to achieving access when there clearly are. Conversely the assessment undertaken for the sites at Jeffreys Farm should have concluded a lower impact than severe given that access can safely be achieved, which would have ruled the site back into the assessment.

At 30 dwellings the density of development allocated for Policy SA29 Site 184 is quite high given the size of the site. Once road and drainage infrastructure are designed in it is hard to see how development of the site could adhere to a transitional layout whereby density lowers nearer to the site boundaries providing a softer edge running into the AONB countryside beyond. It is considered far more likely at this density that there will be no option but to create a hard, developed edge to the site given size constraints.

We therefore consider that Policy SA29 of the Site Allocations DPD is not justified

### **Conclusions with regard to whether the Draft Submission Site Allocations DPD is justified.**

In summary, it is considered that the methodology employed to assess the sites is flawed in that there is no weight given to the relative pros and cons of developing each site in a balanced way – ruling sites out immediately upon receiving a high impact score does necessarily indicate that the negative attributes cannot be mitigated in some way or that they are not outweighed by the other benefits the site might bring.

The sites at Jeffreys Farm have been unfairly scored, particularly in terms of the AONB impact as is detailed in depth in the attached documents, which has resulted in their exclusion from the process where they might not otherwise have been – especially given that all have relatively low impact scores against other planning constraints.

In order to demonstrate the Site Allocations DPD is justified it should demonstrate that it offers the most appropriate strategy when considered against reasonable alternatives. We do not consider the site allocations put forward in the DPD in Horsted Keynes do offer the most appropriate strategy when compared against reasonable alternatives such as the sites at Jeffreys Farm. There are several inconsistencies in the assessments for both Site 184 and 807 which indicate that it should be scored less favourably than they are and the sites at Jeffreys Farm would in our view score more favourably if all of the points we have raised are taken account of.

Furthermore, as it appears that there is a 15-dwelling deficit remaining in Horsted Keynes currently, the site allocations DPD does not provide an appropriate strategy to address this compared with the reasonable alternative of identifying a further site/s to accommodate the dwellings. The sites at Jeffreys Farm would provide suitable, sustainable, deliverable and developable options to secure this.

### **Test 3 – Effective**

#### **Draft Submission Site Allocations DPD**

In terms of the Site Allocations DPD's effectiveness, consideration of whether it is deliverable over the plan period and whether it is based upon effective joint working on cross boundary strategic priorities is necessary.

The housing requirement for Horsted Keynes is known to be greater than the 55 dwellings allocated in the Site Allocations DPD. It is clear that additional sources of housing should be identified to meet the full requirement. We have raised concerns about the ability to successfully access Site Allocation Policy SA29 (Site 184) and if this site does not come forward for development or actual housing capacity is found to much lower than the 30 dwellings allocated, anticipated supply in Horsted Keynes will be significantly short. The NPPF requires Local Plans to be able to "*flexibly adapt to rapid change*" In order to ensure a robust supply that can adapt to changes such as these, there is in our view, a pressing need to reconsider the sites that were initially assessed at Stage 3 and to allocate further land to provide sustainable and deliverable options.

The Site Allocations DPD seeks to identify the sites that will provide for the residual housing requirement already set out in the District Plan once existing commitments and completions and strategic sites are accounted for. The District Plan indicates that the housing requirement set out includes for an element of unmet need arising from elsewhere in the Northern West Sussex Housing Market Area (specifically Crawley) and that 1498 dwellings are included within the housing requirement for the district agreed through the duty to co-operate. On that basis the Site Allocations DPD is in our view based upon effective joint working although as a whole, for the reasons above, it is not considered to be effective as it will not deliver the up to date housing requirement for Horsted Keynes in its entirety and there are inherent uncertainties about the deliverability of at least one of the sites that have been allocated.

#### **Test 4 – Consistent with National Policy**

Paragraph 14 of the NPPF sets out the general presumption in favour of sustainable development. With specific regard to plan making the NPPF confirms that this means:

*“Local planning authorities should positively seek opportunities to meet the development needs of their area and;*

*Local Plans should meet objectively assessed needs with sufficient flexibility to adapt to rapid change unless:*

- *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole or;*
- *Specific policies in this Framework indicate development should be restricted”.*

As discussed in detail in the preceding sections of this letter whilst the Site Allocations DPD has on the face of it sought to meet the residual housing requirement derived from the District Plan, it is clear that the plan is not meeting the residual requirement of 70 dwellings for Horsted Keynes as set out at Table 2.6 of the Site Allocations DPD

Significant concerns have been raised about the accuracy and consistency of assessment of sites in Horsted Keynes and it is considered that these two aspects combined demonstrate that the supply identified in the village is not robust, does not meet the full requirement and does not demonstrate sufficient flexibility to adapt rapidly to change. The Draft Submission DPD does not fully meet the requirements of Para 14 of the NPPF in this respect.

Paragraph 47 of the NPPF details the requirement for Local Planning Authorities to “*boost significantly the supply of housing*”. In order to do this Para 47 suggests Local Planning Authorities should:

*“Use their evidence base to ensure that their Local Plan meets the full and objectively assessed needs for market and affordable housing on the housing market area as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period”*

In this regard as indicated previously the Site Allocations DPD does not meet the full OAN requirement for Horsted Keynes. There is a need to identify additional, deliverable and developable sites to meet this. The Jeffreys Farm sites offer suitable additional sites which have been thoroughly examined in representations and shown to score more favourably than the Council has credited them in the assessments. The sites offer more certainty of supply and comparable if not better locational, environmental and accessibility credentials which indicate that the sites should be considered capable of delivering sustainable development. Sites 68, 69 and 971 are capable of making a genuinely deliverable contribution to housing supply in the village with least impact on the health and well-being of existing residents

The Draft Submission Site Allocations DPD is therefore as a whole not considered to be consistent with a number of key elements of the NPPF namely the need to boost supply and identify sufficient deliverable and developable sites for housing to meet OAN requirements.

### **Legal Compliance**

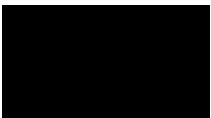
The Council is required under Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012 to demonstrate how it has consulted on the Site Allocations DPD once the plan is formally submitted for examination. The Council is also required to demonstrate how it has complied with the Duty to Co-Operate introduced by the Localism Act 2011.

The Community Involvement Plan which is submitted in support of the Draft Submission Site Allocations DPD details the consultation process that has informed the drafting of the DPD. Section 3 of the Community Involvement Plan details the Council's negotiations with neighbouring local authorities in pursuance of their Duty to Co-operate and refers to the Statements of Common Ground entered into in preparing to fulfil the housing requirements of Mid Sussex District through the DPD.

The Council has gone through the relevant Regulation 18 and Regulation 19 consultation exercises and it is therefore considered that the DPD has been drafted in compliance with the relevant legislation at this stage.

I trust the above and enclosed documentation clearly outlines our concerns in relation to the soundness of the Draft Submission Site Allocations DPD and the way in which it has been formulated. We welcome the Council's further consideration of these points and trust the inaccuracies highlighted will be addressed and our commentary taken account of in future iterations of the DPD document.

Yours faithfully



**Kirsty Castle MRTPI AIEMA**

Enc      Appendices as detailed .

Title Number : WSX381300

This title is dealt with by HM Land Registry, Durham Office.

The following extract contains information taken from the register of the above title number. A full copy of the register accompanies this document and you should read that in order to be sure that these brief details are complete.

Neither this extract nor the full copy is an 'Official Copy' of the register. An official copy of the register is admissible in evidence in a court to the same extent as the original. A person is entitled to be indemnified by the registrar if he or she suffers loss by reason of a mistake in an official copy.

This extract shows information current on 13 SEP 2019 at 12:37:54 and so does not take account of any application made after that time even if pending in HM Land Registry when this extract was issued.

REGISTER EXTRACT

Title Number	: WSX381300
Address of Property	: Land on the West side of Sugar Lane, Horsted Keynes, Haywards Heath
Price Stated	: £323,500
Registered Owner(s)	: HELENA MARY GRIFFITHS [REDACTED] [REDACTED] SARAH JANE BAILEY [REDACTED] [REDACTED] TIMOTHY HUGH JOHN GRIFFITHS [REDACTED] [REDACTED] PETER WILLIAM MATTHEW GRIFFITHS [REDACTED] [REDACTED]
Lender(s)	: None

Title number WSX381300

This is a copy of the register of the title number set out immediately below, showing the entries in the register on 13 SEP 2019 at 12:37:54. This copy does not take account of any application made after that time even if still pending in HM Land Registry when this copy was issued.

This copy is not an 'Official Copy' of the register. An official copy of the register is admissible in evidence in a court to the same extent as the original. A person is entitled to be indemnified by the registrar if he or she suffers loss by reason of a mistake in an official copy. If you want to obtain an official copy, the HM Land Registry web site explains how to do this.

## A: Property Register

This register describes the land and estate comprised in the title.

WEST SUSSEX : MID SUSSEX

- 1 (20.09.2007) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Land on the West side of Sugar Lane, Horsted Keynes, Haywards Heath.
- 2 (20.09.2007) The land has the benefit of the rights reserved by but is subject to the rights granted by the Transfer dated 12 April 1990 referred to in the Charges Register.
- 3 (20.09.2007) The land has the benefit of the rights reserved by but is subject to the rights granted by a Transfer of land adjoining Jeffreys Farmhouse dated 12 November 1992 made between (1) George Frederick Colin Griffiths and (2) Richard Alan Vince and Celia Margaret Vince.

*NOTE: Copy filed under WSX312715.*

- 4 (20.09.2007) The land has the benefit of the rights reserved by but is subject to the rights granted by a Transfer of land adjoining the Western boundary of the land in this title dated 29 January 1998 made between (1) George Frederick Colin Griffiths and (2) Timothy Hugh John Griffiths.

*NOTE: Copy filed under WSX220004.*

- 5 (23.03.2009) The land has the benefit of the rights reserved by but is subject to the rights granted by the Transfer dated 11 March 2009 referred to in the Charges Register.

## B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (02.06.2016) PROPRIETOR: HELENA MARY GRIFFITHS [REDACTED] and SARAH JANE BAILEY [REDACTED] and TIMOTHY HUGH JOHN GRIFFITHS [REDACTED] and PETER WILLIAM MATTHEW GRIFFITHS [REDACTED]
- 2 (02.06.2016) The value stated as at 2 June 2016 was £323,500.
- 3 (02.06.2016) RESTRICTION: No disposition by a sole proprietor of the registered estate (except a trust corporation) under which capital money arises is to be registered unless authorised by an order of the court.

## C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (20.09.2007) A Conveyance of the land in this title and other land dated 2 September 1957 made between (1) The Ashdown And General Land Company and (2) George Frederick Colin Griffiths contains restrictive covenants and reserves rights.

*NOTE: Copy filed under WSX312715.*

- 2 (20.09.2007) The land is subject to the rights granted by a Conveyance of an electricity sub-station site dated 17 April 1961 made between (1) George Frederick Colin Griffiths (2) The Agricultural Mortgage Corporation Limited (3) Lily Margaret Kerly and Beatrice Brooks and (4) The South Eastern Electricity Board .

*NOTE: Copy filed under WSX312715.*

- 3 (20.09.2007) A Transfer of Jeffreys Farmhouse dated 12 April 1990 made between (1) George Frederick Colin Griffiths and (2) Richard Alan Vince and Celia Margaret Vince contains the restrictive covenants by the Vendor.

*NOTE: Copy filed under WSX312715.*

- 4 (23.03.2009) A Transfer of Jeffreys Farm Cottage dated 11 March 2009 made between (1) George Frederick Colin Griffiths and (2) Mary Veronica St Clere Griffiths and Helena Mary Griffiths contains restrictive covenants by the transferor.

*NOTE: Copy filed under WSX326927.*

- 5 (02.06.2016) A Transfer of the land in this title dated 11 May 2016 made between (1) Mary Veronica St Clere Griffiths and (2) Helena Mary Griffiths, Sarah Jane Bailey, Timothy Hugh John Griffiths and Peter William Matthew Griffiths contains restrictive covenants.

*NOTE: Copy filed.*

- 6 (02.06.2016) The land is subject to any rights that are reserved by the Transfer dated 11 May 2016 referred to above and affect the registered land.

End of register



# HM Land Registry

## Current title plan

Title number **WSX381300**  
Ordnance Survey map reference **TQ3727NE**  
Scale **1:2500**  
Administrative area **West Sussex : Mid Sussex**



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The land tinted green is not included in this title.



This is a copy of the title plan on 13 SEP 2019 at 12:37:54. This copy does not take account of any application made after that time even if still pending in HM Land Registry when this copy was issued.

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HM Land Registry endeavours to maintain high quality and scale accuracy of title plan images. The quality and accuracy of any print will depend on your printer, your computer and its print settings. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by HM Land Registry, Durham Office.

These are the notes referred to on the following official copy

Title Number WSX312715

The electronic official copy of the document follows this message.

This copy may not be the same size as the original.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

H M LAND REGISTRY

Land Registration Acts 1925 to 1986

TRANSFER OF PART (Rule 72)

Imposing Fresh Restrictive Covenants



COUNTY AND DISTRICT : WEST SUSSEX - MID SUSSEX  
NEW TITLE NUMBER :  
LAND TRANSFERRED : Jeffreys Farmhouse Jeffreys Farm  
Horsted Keynes West Sussex

DATED : 12 April

3 E 3 R.  
PRODUCED  
- 3 MAY 1990  
FINANCE ACT 1991

DEFINITIONS

The Plan : The plan attached hereto  
The Property : Jeffreys Farmhouse situate on and forming  
part of Jeffreys Farm Horsted Keynes  
West Sussex and for identification only shown  
edged red on the plan and where the context  
admits each and every part thereof as  
The Retained Land : Jeffreys Farm Horsted Keynes and where the  
context admits each and every part thereof as  
comprised in the assurance to the Vendor dated  
the Second day of September One thousand nine  
hundred and fifty seven but excluding the  
Property  
Services : Water soil gas electricity drainage  
telephones and similar services





Service Media : Pipes wires drains cables conduits aerials  
water courses gutters soakaways and other  
similar installations for the passage of any of  
the services

Vendor : GEORGE FREDERICK COLIN GRIFFITHS  
[REDACTED]

Purchaser : RICHARD ALAN VINCE and CELIA MARGARET VINCE  
[REDACTED]

Price : TWO HUNDRED AND SEVENTEEN THOUSAND POUNDS  
(£217,000)

1. IN consideration of the price (the receipt whereof is hereby acknowledged) the Vendor as beneficial owner transfers the Property to the Purchaser subject to :-

- (a) The exceptions and reservations contained or referred to in the assurance of Jeffreys Farm to the Vendor dated 2nd September 1957
- (b) the provisions of a Conveyance dated 17th April 1961 made between the Vendor (1) Agricultural Mortgage Corporation (2) Lily Margaret Kirby and Beatrice Brooks (3) South Eastern Electricity Board (4)
- (c) to the exceptions and reservations in the terms detailed in the First Schedule hereto and which so far as not already in existence are reserved by this Transfer but together with the benefit of the rights in the terms detailed in the Second Schedule hereto and which so far as not already in existence are granted by this Transfer

2. THE Vendor covenants with the Purchaser in manner specified in the Third Schedule

3. THE Purchaser covenants with the Vendor in manner specified in the Fourth Schedule

4. THE Vendor and Purchaser agree and declare in the terms detailed in the Fifth Schedule

#### FIRST SCHEDULE

Exceptions and Reservations for the benefit of the Retained land and which are to be exercised in common with the Vendor and all others who may have or be entitled to or to whom the Vendor may grant like rights

(a) To the passage of the services through the service media now laid in on over or under the Property

(b) To construct and lay such further service media in on over or under the Property as may be required and to make connections to any such service media in on over or under the Property now laid under the property and thereafter to the free passage of services through all such service media

(c) To construct any buildings on or over the Retained land directly up to any boundary of the Property such that gutters eaves downpipes foundations or other projections may protrude into the Property and to key into any buildings on or over the Property

(d) To enter on to so much of the Property

(i) for the exercise of any of the rights referred to in this Schedule

(ii) for the purpose of inspecting maintaining cleaning repairing replacing renewing removing or rebuilding any service media in on over or under the Property and any

- building now or hereafter erected on or adjoining any boundary between the Property and the Retained land and
- (e) The full and free right of access of light and air or other easements to any building erected or to be erected on the Retained land notwithstanding that the same may interfere with or restrict the user of the Property
- (f) All such other rights easements quasi rights and quasi easements of a continuous nature hitherto used and enjoyed in connection with the Retained land and each and every part thereof and over the Property as if the same had always been in separate ownership and such rights easements quasi rights and quasi easements had been acquired by prescription

#### SECOND SCHEDULE

Rights granted for the benefit of the Property and which are to be exercised in common with the Vendor and all others who may have or be entitled to or to whom the Vendor may grant like rights

- (a) rights similar to those contained in clauses (a) (until such time as the works referred to in Clause (b) of the Fourth Schedule hereto have been completed), (c) and (d) of the First Schedule (mutatis mutandis) and provided that none of the said rights shall be exercisable by the Purchaser in on over or under that part of the Retained land comprising "The Cottage" (as shown on the plan) and the garden ground and land appurtenant thereto
- (b) to pass and repass with or without vehicles or animals at all times of the day or night and for all purposes connected with the use and enjoyment of the Property as a private dwelling over and along the driveway cross hatched in black over the Plan



THIRD SCHEDULE

Covenants by the Vendor  
(for the benefit of the Property)

The Vendor hereby covenants :-

- (i) not to erect any building of any type on the land edged yellow on the plan with the exception of a sports pavilion with storage and toilet facilities ancillary thereto but not within the area bounded by points X Y Z on the Plan and
- (ii) to keep the driveway cross hatched in black on the plan in a good state of repair and condition

FOURTH SCHEDULE

Covenants by the Purchaser  
(for the benefit of the Retained land)

- (a) Within two months of the date hereof and prior to carrying out any works upon the Property to erect stock-proof fencing upon all boundaries of the Property marked with a 'T' and thereafter to maintain the same in good repair and condition
- (b) Within six months hereof to lay and construct a new drainage system for both foul and surface water wholly within the boundaries of and serving the Property exclusively and immediately thereafter to disconnect the Property from any existing drainage service media which shall be left in a good and safe state of repair and condition all which said work shall be carried out to the Vendor's reasonable satisfaction
- (c) Not to erect or convert or adapt the buildings on the Property to provide more than one residential unit without the Vendors prior

written consent which shall not be unreasonably withheld

- (d) Not to carry out any alteration addition or extension to the Property unless the plans elevations and specifications thereof have first been approved in writing by the Vendor or his Surveyor whose reasonable costs in connection with this clause shall be paid by the Purchaser. The Vendor shall not unreasonably withhold or delay approval
- (e) No caravan house on wheels chattel or structure adapted or intended for use as a dwelling or sleeping apartment shall be erected made placed or used or be allowed to remain on the Property
- (f) No earth sand gravel or other material shall be dug out excavated or removed from the property except for the purpose of and laying service media or for the laying of garden paths
- (g) No trade manufacture business or profession of any kind shall at any time be set up or carried on or upon the Property
- (h) Not to do anything or permit anything to be done on the Property which may be or become a nuisance or annoyance or disturbance to the Vendor or the owners or occupiers of the Retained land and without prejudice to the generality of the foregoing not to permit the use of any radio or cassette player/recorder or other similar device to be played nor shall any singing music or excessive noise be permitted so as to be audible on any part of the Retained land
- (i) not to obstruct park or allow to be parked any motor car or other vehicle or other means of transport on the driveway cross hatched black on the plan
- (j) to pay and contribute a fair proportion according to user of the cost of inspecting maintaining cleansing repairing replacing and renewing the driveway cross hatched black on the plan and any service



media used in common with the Vendor or others

(k) not to make any connections to the service media so as to cause the same to become overloaded or subject to excessive use wear or tear

(l) to make good to the Vendor's satisfaction all outbuildings and any fences or other structures now or hereafter erected on the Property which are on or immediately adjacent to any boundary between points "A" and "B" on the plan

(m) not to grant or except or reserve any easements over the land cross hatched black on the plan or in respect of any service media

#### FIFTH SCHEDULE

##### (Agreements and Declaration)

(a) Insofar as necessary or applicable the Perpetuity period applicable hereto shall be the period of eighty years from the date hereof

(b) The said rights easements exceptions and reservations are valid only if first exercisable within the Perpetuity period referred to and are subject to the person exercising the same :-

(i) paying a fair proportion of any expense necessarily incurred in inspecting maintaining repairing and renewing them

(ii) in the case of rights of entry to enter only on to so much of the Property or the Retained land (as applicable) as is necessary effecting entry on reasonable notice at a reasonable time of the day (except in case of emergency in each case) causing as little damage as possible and making

good to the reasonable satisfaction of such persons  
thereby affected any damage caused

(c) The covenants herein contained are limited to seisin

(d) Covenants by more than one person shall be treated as being  
joint and several

(e) The singular shall include the plural and the neuter shall  
include the masculine or the feminine as appropriate and vice versa in  
each case

(f) The Purchasers hereby declare that the survivor of them  
can/~~cannot~~ give a valid receipt for capital money arising on a  
disposition of the land

(g) The expressions "the Vendor" and "the Purchaser" shall extend to  
their respective successors in title

SIGNED SEALED AND DELIVERED by )  
the Vendor in the presence of:- )

SIGNED SEALED AND DELIVERED by )  
the Purchaser in the presence )  
of :- )

P. M. SCAMPTON  
SOLICITOR  
22 SUSSEX ROAD  
HAYWARDS HEATH  
WEST SUSSEX

Please sign  
the plan



**RE: LAND AT JEFFREYS FARM, HORSTED KEYNES, WEST SUSSEX**

**OPINION**

**Instructions**

1. I am instructed to advise various members of the Griffiths family on the meaning and effect of a restrictive covenant contained in a transfer of freehold land in West Sussex dated 4<sup>th</sup> April 1990.
2. My conclusions are set out briefly in paragraph 6 below. The full reasoning for my conclusions follows in paragraphs 7 onwards.

**Relevant facts**

3. The relevant facts are as these. George Griffiths was the freehold owner of land in Horsted Keynes, West Sussex, known as Jeffreys Farm, which had been conveyed to him on 2<sup>nd</sup> September 1957.<sup>1</sup> In 1990 he decided to sell part of this land, specifically Jeffreys Farmhouse, to a Mr and Mrs Vince for £217,000. This was achieved by a transfer of part ("the Transfer") dated 12<sup>th</sup> April 1990. By clause 2 of the Transfer, Mr Griffiths covenanted with Mr and

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<sup>1</sup> By an assurance of that date. I do not know whether Mr Griffiths acquired his land in Horsted Keynes pursuant to any further conveyances, but that is not material for present purposes.

Mrs Vince in the manner specified in the Third Schedule to the Transfer. That Schedule imposed restrictive covenants over the land being retained by Mr Griffiths for the benefit of the land being transferred. The material covenant is in the following terms:-

*"The Vendor hereby covenants ... not to erect any building of any type on the land edged yellow on the plan with the exception of a sports pavilion with storage and toilet facilities ancillary thereto but not within the area bounded by points X Y Z on the Plan."*

The "land edged yellow" is shown on the plan attached to the Transfer. It is immediately adjacent to Jeffreys Farm and was no doubt part of Mr Griffiths' "Retained Land" as defined on the first page of the Transfer.<sup>2</sup>

4. Mr Griffiths has since died. The Retained Land, including the land edged yellow, is now in the ownership of his widow and adult children. Mr and Mrs Vince still live [REDACTED] Architects' plans<sup>3</sup> have been prepared, on behalf of one of more members of the Griffiths family, for a residential housing development on part of the Retained Land, from which I see that no housing is intended to be built upon the land edged yellow and that the only parts of the development intended to encroach onto the land edged yellow would be "a community building",<sup>4</sup> an access road, together with its ancillary

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<sup>2</sup> The Retained Land is defined in the Transfer as "Jeffreys Farm ... as comprised in the assurance to the Vendor dated [2<sup>nd</sup>] September [1957] but excluding [Jeffreys Farmhouse]". I have not seen the 1957 assurance, but have proceeded on the basis that the "land edged yellow" lies within the Retained Land.

<sup>3</sup> By Ramsay & Co Landscape Architecture. I have been provided with a helpful drawing entitled "Figure 03: Proposed Development and Mitigating Planting Scheme".

<sup>4</sup> My instructions refer to this community building as a sports hall. I can see from the architects' drawing that it is located away from the triangle of land marked X Y Z on the Transfer plan. I have not been asked to consider the meaning of "sports pavilion with storage and toilet facilities ancillary thereto". I merely observe, for the present, that I doubt very much whether a "sports hall" is an interchangeable definition for a "sports pavilion". Certainly, a "community building" could be a very different sort of building from a sports pavilion. Care will need to be given to the detailed design of any such building if it is not to breach the covenant.



infrastructure, including pavements, and a pedestrian walkway serving the development. I am told that no street lighting is planned along the access road at the present time.

5. I am asked whether the building of the access road on the land edged yellow would be a breach of the restrictive covenant.

### **Conclusions in brief**

6. In summary, and having regard to the architect's drawing provided to me, I consider that the construction of the access road on the land edged yellow would not constitute the erection of a building within the meaning of the covenant in Transfer and that therefore there would be no breach of covenant. As to whether the construction of the "community building" would be a breach of covenant, I have made some preliminary observations in footnote 4 above. My reasons for these conclusions now follow.

### **Legal analysis**

7. In common parlance, a road and pavements would not ordinarily or obviously fall within the definition of "a building of any sort" but the matter is by no means entirely straightforward. In some reported cases, structures have been held to fall within the definition of a "building" which might at first sight appear to be odd or surprising. It is ultimately a question of construing the words of the covenant in the light of what action or activity the covenant is prohibiting (or permitting). Before considering the relevant cases and explaining the principles of construction in more detail, it will be useful to highlight the relevant words (in bold italics below) under consideration in this case:-

- *not to erect* ... (note the use of the verb “to erect” rather than, for example, to construct, or to build etc; this is significant);
  - *any building* ... (note the choice of building rather than structure etc, and the restriction to a single word description);
  - *of any type* ... (query whether this adds anything);
  - *with the exception of a sports pavilion* ... (clearly a sports pavilion is a particular type of building).
8. Unless the context otherwise requires, the starting point for the construction of covenants is the natural and ordinary meaning of the words used or their conventional usage.<sup>5</sup> In the face of a clear meaning, it is not the function of the court to find ambiguities; nor should the *contra proferentem* rule for resolving ambiguities be used to create an ambiguity which according to the ordinary meaning of the words is not there. The essential question of construction is the meaning that the words in the deed would convey to a reasonable person having all the background knowledge that would have been reasonably available to the parties in the situation in which they were at the time of the contract. Knowledge is to be gained from the whole deed and also from such other background knowledge as the reasonable person would consider relevant. A particular word is thus considered in the context of the clause within which it is found and as used elsewhere in the same document and also in the context of the admissible relevant background.
9. In a fairly recent judicial review case,<sup>6</sup> the Court of Appeal had to consider the meaning of the word “building” in the context of the Cremation Act 1902 and associated regulations made under statutory instrument. An orthodox Hindu

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<sup>5</sup> *Investors Compensation Scheme Ltd-v-West Bromwich Building Society* [1997] UKHL 28; [1998] 1 WLR 896 HL.

<sup>6</sup> *R (Ghai)-v-Newcastle City Council* [2009] FWHC 978 Admin; [2011] QB 591.

had requested the local authority to dedicate land for traditional open air funeral pyres. The authority had refused on the basis of legislative provisions relating to cremation contained in the 1902 Act. The claimant sought judicial review of the authority's refusal (on the grounds that it breached his article 9 rights under the ECHR), which was dismissed. The claimant then appealed, conceding that his religious belief would be satisfied by cremation within a structure, rather than fully in the open air, provided that the process was by traditional fire and sunlight could shine directly on his body. The issue therefore arose whether the claimant's cremation could reasonably be achieved in such a structure, having regard to the definition of a crematorium as a "building" in section 2 of the 1902 Act. The appeal was allowed on the grounds that, having regard to the legislative context and to the aims of the provisions of the 1902 Act, the word building, in section 2, was to be given its ordinary, natural and relatively wide meaning, so as to include a structure which was relatively permanent and substantial and could properly be described as "constructed"; that a substantial and effectively permanent structure like those in which Hindu cremations were carried out abroad, of which evidence had been given, could therefore be a crematorium within the definition in s. 2.

10. It is worth setting out the reasoning and analysis of Neuberger LJ who, in giving, the leading judgment of the Court of Appeal, considered the meaning of the word "building", and the appropriate way to approach its construction, in some detail. He said, at paragraphs 22 to 26 of his judgment:-

"The first argument is based on the normal meaning of the word "building". The meaning of the word "building", or, to put the point another way, determining whether a particular structure is a "building", must depend on the context in which the word is used. Interpreting a word in a statute or a contract, or indeed in any other document, can, of course, only be sensibly done by considering the context in which it is being used. However, where, as is the case here, the word is one which is used in ordinary language and has no established special legal or technical meaning, and is not defined in the document in



question (in this case, the Act), one can usefully take as a starting point the word's ordinary meaning. In the *Moir* case [1892] 1 QB 264,<sup>7</sup> 270, 271, and 273, Lord Esher MR, Fry and Lopes LJ approached the question of the interpretation of the word "building" in the Metropolitan Building Act 1855 (18 & 19 Vict c 122) by starting with its "ordinary" meaning, its meaning in its "ordinary sense" and "popular usage", or its "ordinary and usual sense", and then considering its context.

In my view, Lord Esher MR's obiter statement in the *Moir* case, at p. 270, that the "ordinary" meaning of the noun "building" is "an inclosure of brick or stonework, covered in by a roof" can only be justified if it was intended to refer to the ordinary meaning of the word "building" in the context of the statute in which it fell to be construed in the case before him. It is not without significance that there is nothing in the reasoned judgments of Fry or Lopes LJ in the *Moir* case to support Lord Esher MR's statement.

Particularly as it appears that Lord Esher MR's statement as to the "ordinary" meaning of the word "building" may be treated as some sort of authoritative guidance as to the normal meaning of the word, I take this opportunity to say that it would be wrong to see it as having any such effect. In my opinion, the word "building" in normal parlance is naturally used to describe a significantly wider range of structures than would be included within Lord Esher MR's "inclosure of brick or stonework, covered in by a roof".

There are many wooden or other structures not made of "brick or stonework", such as chalets, stables, or industrial sheds, and there are many structures which are not "inclosures", such as wood-drying stores, bandstands, or Dutch barns, all of which, on the basis of the normal use of the word, are "buildings". Other structures come easily to mind, such as the pyramids or the colosseum, which are buildings in normal parlance, but do not fall within Lord Esher MR's "ordinary" meaning. So, too, at least some prefabricated structures, particularly if attached to a concrete, or similar, base, are naturally described as buildings.

Deciding what a word means in a particular context can often be an iterative process, and the ultimate decision should not be affected by whether one starts with a *prima facie* assumption as to the meaning of the word and then looks at the context, or one starts by looking at the context and then turns to the word. However, if one approaches the issue by making a preliminary assumption as to the meaning of a word such as "building", then, in agreement with what Etherton LJ said in argument, I do not think that it would be right to take a somewhat artificially narrow meaning of the word, and then see whether the context justifies a more expansive meaning. It is more appropriate to take its more natural, wider, meaning and then consider whether, and if so to what extent, that meaning is cut down by the context in which the word is used."

Neuberger LJ concluded at paragraphs 35 to 38:-

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<sup>7</sup> *Moir-v-Williams* [1892] 1 QB 264 at 270.

"In the light of these factors, I consider that there is no reason not to give the word "building" its natural and relatively wide meaning in section 2 of the Act, as discussed in paras 21–26 above. The fact that the noun which one might primarily use, in ordinary conversation, to describe some of the structures mentioned in para 25 above would not be a "building" is nothing to the point. The primary way most people would describe the structure in which they live would be a house or a block of flats, but that does not mean that a house or a block of flats is not, in ordinary language, a building.

There have, predictably, been many cases which have required the courts to consider the meaning of the noun "building", but the outcome has inevitably been governed by the context. None the less, it is not without interest to note that in this court a reasonably substantial barbecue has been held to be a "building" in the context of a restrictive covenant: see *Windsor Hotel (Newquay) Ltd-v-Allan The Times*, 1 July 1980; [1980] CA Transcript No 620. It is also perhaps worth mentioning that the contention that the noun "building" in section 10 of the Open Spaces Act 1906 should be restricted in the way that Mr Swift suggests was rejected in *In re St Luke's, Chelsea* [1976] Fam 295, 312d.

Accordingly, the wording of the Act does not detract from adopting the natural and relatively broad meaning of "building" in section 2. The references to crematoria being "constructed" in sections 5 and 6, and the reference to a donation of land in section 6, tend to suggest that to be a "building" within section 2 a structure must be (at the risk of an oxymoron) relatively permanent and substantial. This may remove some structures from the ambit of the word as used in the Act, but I doubt those aspects take the matter any further: if a structure is not relatively permanent and cannot be described as "constructed", it would not, I think, ordinarily be described as a "building".

This conclusion is supported by other factors. Thus, in the light of the wide regulatory powers given to the Secretary of State by section 7, there is no need to give a restricted meaning to the word "building" in the Act: if it was considered that, for one reason or another, the type of structure in which cremations could occur should be restricted, that could be achieved by regulations made pursuant to section 7. Further, where Parliament wanted to impose restrictions on crematoria (as it did in sections 2 and 5, with regard to fitting out and location), it spelt them out. Additionally, given that cremating bodies was known to be lawful as at 1902, it appears to me that one should lean in favour of a construction which gives a statute, introduced primarily to regularise, and ensure uniformity in, cremations, a generous rather than a restricted effect. (Quite apart from this, if, as I prefer to leave open, the Act does not preclude open air cremations, there would be a further reason for adopting a natural and wide definition of "building" for present purposes.)"

11. Although the word “building” is naturally used to describe a wide range of structures, as Lord Halsbury LC said in *Paddington Corporation-v-Attorney General* [1906] AC 1 at p. 3:-

“ ... in the books there may be found a great variety of cases where, with reference to the subject-matter of the covenant and the meaning of what was in question between the parties, a screen or some erection of that nature might be considered a “building” with reference to some covenants and might not be considered a building with reference to others. The subject-matter to be dealt with is to be looked at in order to see what the word “building” means in relation to that particular subject-matter. It is impossible to give any definite meaning to it in the loose language which is used in some cases; anything which is in the nature of a building might be within one covenant and the same erection might not be a building with reference to another covenant.”

12. The meaning of the word “building” has also been discussed at length in the context of the Disused Burial Grounds Act 1884<sup>8</sup> but perhaps one of the more interesting cases is the Court of Appeal authority of *Long Eaton Recreation Grounds Co Ltd-v-Midland Railway Co* [1902] 2 KB 574. In that case a railway company took, for the purpose of their undertaking (i.e. the construction of the railway), land which was subject to a covenant, entered into by their vendor, not to erect thereon “any building other than private dwelling-houses.”<sup>9</sup> The company constructed a railway embankment on the land. It was held that the erection of the embankment was a breach of the covenant. This may seem surprising. Collins MR held:-<sup>10</sup>

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<sup>8</sup> Section 3 of which provides: “... it shall not be lawful to erect any buildings upon any disused burial ground, except for the purpose of enlarging a church, chapel, meeting house, or other places of worship.” See in particular *Re St Luke's, Chelsea* (No. 1) [1976] Fam 295 and *Paddington Corporation-v-Attorney General* [1906] AC 1. In the latter case, Buckley J, with whom the House of Lords agreed, held: “I am of opinion that [s. 3 of 1884 Act] meant what it said - that the space was to remain unbuilt upon. It is to be disused as a burial ground, but it is not to be used as a building ground - that is the meaning of it; and it appears to me that anything that approaches to the character of a building, whether temporary or permanent, is obviously within the prohibition.”

<sup>9</sup> The precise wording that the purchasers “will not erect any building on the said piece of land hereinbefore secondly described other than private dwelling-houses with proper conveniences, and all such houses shall front to Springfield Avenue aforesaid.”

<sup>10</sup> At pp. 580-581.

"[I]n this case it seems to me to be obvious that these provisions as to the particular class of building which alone was to be allowed on the land were for the benefit of the land retained. The covenant was intended to secure that nothing but private dwelling-houses of a certain value should face Springfield Avenue; and to place an embankment there instead of private houses is certainly a breach of what was intended to be provided for by the covenant. It is said that there has been no breach because an embankment is not a building, but what is provided for is that if any building is to be erected on the land it is to be a private house, and that would, in my judgment exclude, and was intended to exclude, anything in the nature of an embankment. In substance the covenant is that nothing but a private dwelling shall be erected on the land. If, however, it is necessary to say whether a railway embankment can be covered by the word "building," I see no reason for saying that it cannot. A building is not necessarily limited to a structure of bricks and mortar. There is nothing to negative this view, and it seems to me to be obvious that it comes within the sense of the covenant, and that to hold otherwise would be to defeat the object of the parties."

13. I turn now to the verb "to erect" which has been used in the covenant affecting Jeffreys Farm. The noun "erection", like the word construction, has a wider meaning than building, although it is considered<sup>11</sup> that it probably has to be above a surface. This is consistent with the origin of the verb "to erect" which comes from the Latin, *erigere*, to raise. The Shorter Oxford English Dictionary gives the following meanings for the verb to erect:-

I – elevate, raise

1. set in an upright position, make erect
2. direct upwards
3. raise in importance, dignity

II – construct, establish

1. build, construct, set up (a statue, a pole etc)
2. raise an army
3. draw a line perpendicular to a given line.

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<sup>11</sup> See Preston & Newsom on *Restrictive Covenants Affecting Freehold Land* (10<sup>th</sup> edn.) at para. 7.02.

14. Having regard to the above authorities and principles of construction, it therefore seems to me that in the present case the normal, everyday meaning of the word “building” or the words “building of any type” would not ordinarily include a road within its definition. My view that, in this particular covenant, the definition “building” was not obviously intended to include “road” is reinforced by the use of the verb “to erect”. Whilst one readily refers to “building” or “constructing” a road, it would be most unusual to use the phrase “to erect a road” unless the road was of an obviously elevated type.<sup>12</sup> The use of the verb “to erect” in these types of restrictive covenants conveys the sense of a construction that rises above the ground, unlike the intended access road, in a way that is more than merely *de minimis*. I have found no case where a road has been held to be either a building or an erection, or even contemplated as such. I pause to observe, however, that if the intended access road were to be of a noticeably elevated type, then I consider that such a road, with the substantial infrastructure that it would possess, could well fall within the definition of “a building or any type of building” as those words appear in the Transfer.
15. Poles for the purpose of carrying electricity cables can be erections or structures, but strong judicial doubt has been expressed as to whether they could be buildings.<sup>13</sup> This is relevant to the concern expressed in my instructions about street lighting, although I note that street lighting is not planned at the present time.

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<sup>12</sup> Such as a flyover. It would not be odd, it seems to me, to refer to “erecting a flyover”.

<sup>13</sup> See *National Trust-v-Midland Electricity Board* [1952] Ch 380 *per* Vaisey J at p. 384: “The first and fundamental point to be considered is the meaning and effect of the restrictive conditions. Let me deal first with the second, which reads as follows: “No building shall at any time hereafter be erected upon any part of the land by or with the consent of the covenantors,” a word which now, in the events which have happened, means the Church Commissioners. In my judgment, these poles are certainly not buildings, though they may well be erections or structures, and for that proposition I rely on *Wood-v-Cooper* [1894] 3 Ch 671 and *Paddington Corporation-v-Attorney-General*. [1903] 1 Ch 109.

16. Turning to the broad intention of the restrictive covenant, it seems to me that, in the light of that intention, the words “building or any type of building”<sup>14</sup> are not reasonably capable of encompassing an access road of the type intended at Jeffreys Farm. The broad purpose of the covenant, so it seems to me, is to preserve the open space and rural character of the land edged yellow retained by George Griffiths (albeit that a sports pavilion is permitted), for the benefit of the neighbouring land at Jeffreys Farmhouse (in respect of which similar restrictions are imposed by the Transfer) and that it is for that reason that the erection of buildings is prohibited by the covenant.<sup>15</sup> That being the broad purpose of the covenant, it therefore seems to me that there is no justification for construing an access road of the type intended as a “building” within the meaning of the covenant.<sup>16</sup>
17. That is probably all I can usefully say for the time being.

  
KATE SELWAY

9<sup>th</sup> September 2016

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<sup>14</sup> It seems to me that if the words “any type of building” add anything to the definition it is simply that they emphasise its intended width.

<sup>15</sup> See the Fourth Schedule to the Transfer.

<sup>16</sup> It would clearly not, in my view, be open to argue that the construction of the road breaches the covenant affecting the land edged yellow because the road provides access to a housing development (“buildings”) on neighbouring land. The buildings to which the access road is intended to lead would not be on the land burdened by the covenant. This may seem obvious but a similar point was in issue in the Court of Appeal case of *Coventry School Foundation Trustees v Whitehouse* [2013] EWCA Civ 885; [2014] 1 P&CR 4 where the matter was clarified. In that case the covenant prohibited the burdened land being used for purposes causing nuisance annoyance and disturbance. The operation of a school was proposed on the burdened land. The apprehended nuisance etc was the increased traffic twice daily on the school run; but this traffic nuisance would take place on adjacent highways, not on the burdened land itself. The court held there would be no breach of covenant.



Radcliffe Chambers,  
11 New Square,  
Lincoln's Inn,  
London,  
WC2A 3QB.

September 2016

**RE: LAND AT JEFFREYS FARM, HORSTED**

**KEYNES, WEST SUSSEX**

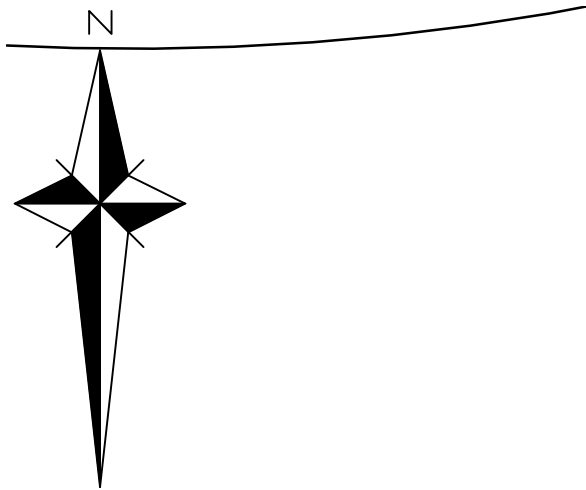
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**OPINION**

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WAUGH & CO SOLICITORS  
3 HEATH SQUARE  
BOLTRO ROAD  
HAYWARDS HEATH  
WEST SUSSEX  
RH16 1BD

REF: JSC/GRI30/2/Griffiths



Approx. line of TPO

Visibility Splay 2.0m x 4.0m

VISIBILITY SPLAYS ARE WITHIN  
APPLICANT LAND OWNERSHIP TO  
THE NORTH AND WITHIN PUBLIC  
HIGHWAY TO THE SOUTH

5m

88.7m

Trees to be felled/cut  
back as required to suit  
visibility

Visibility Splay 2.0m x 4.0m

GP

El Sub Sta

The  
Cottage

Smarties

Twittens

LB

Hansland Cottis


12

1

Highfields

6

- GENERAL NOTES
1. The location, size, depth and identification of existing services that may be shown or referred to on this drawing have been assessed from non intrusive observations , record drawings or the like. The contractor shall safely carry out intrusive investigations, trial holes or soundings prior to commencing work to satisfy himself that it is safe to proceed and that the assessments are accurate. any discrepancies shall be notified to gta prior to works commencing.
  2. Tender or billing drawings shall not be used for construction or the ordering of materials.
  3. Do not scale. All dimensions and levels to be site confirmed.
  4. This drawing shall be read in conjunction with all relevant architects, consultants drawings and specifications, together with H&S plan requirements.
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  6. All drawings specifications and recommendations made by gta are subject to Local Authority and other relevant Statutory Authorities approval. Any works or services made abortive due to the client proceeding prior to these approvals is considered wholly at the Clients risk. gta hold no responsibility for resulting abortive works or costs.

P1	INITIAL ISSUE	31.03.2020	JMW	RW			
Rev	Amendments	Date	Dsn	Chk			
Status	FOR PLANNING						
Client	HELENA GRIFFITHS						
Architect							
Project	JEFFREYS FARM HORSTED KEYNES						
Title	ACCESS PLAN						
Date	MARCH 2020	Scale @ A1	As Shown				
Clients Ref	Project Ref.		10001				
<div><div></div><div>Civils &amp; Transport</div><div>Gloucester House, 66a Church Walk, Burgess Hill, West Sussex, RH15 9AS Tel 01444 871444 Web: www.gtacivils.co.uk</div></div>							
Drawing Number			Rev.				
10001/201			P1				

September 2019

# Challenge to AONB assessment of site #69, Land at Jeffreys Farm (Fields to North of Farm Buildings), Horsted Keynes of May 2019.

Prepared by H. Griffiths

We understand that the High Weald Area of Outstanding Natural Beauty (AONB) Partnership fulfil an advisory role to both Local Authorities and Neighbourhood Plans steering groups. The advice provided by the AONB Partnership is being heavily weighted in planning decisions, and therefore needs to be robust and defensible.

We have serious concerns over the advice being provided in respect of both planning decisions, local plan formulation and Neighbourhood Plan preparation in Horsted Keynes by the AONB planning department. There appears to be a failing in impartiality, transparency, and consistency of the assessment of sites in connection with the Mid Sussex District Council (MSDC) SHELAA assessments, and also the Horsted Keynes Neighbourhood Plan site assessments. This seems to be most notable for site #69 (Land at Jeffreys Farm, Field to north of farm buildings). We are raising these concerns to you as the landowners of site #69, however there have been comments made to us by several members of the public concerning the assessment of site #69, so we feel we are also representing the interests of the community as a Neighbourhood Plan is being prepared, and site #69 has support from many residents of the parish.

## **History of the AONB Assessments:**

Site #69 has been assessed twice by the AONB: firstly, in October 2018 as part of an amalgamated assessment of the farm area (SHELAA site #780), and again in May 2019 as a stand-alone site #69.

The initial October 2019 assessment was on a site (#780) that was not being promoted by the landowners as a large block of 5.32 ha. MSDC had amalgamated the 3 different sites put forward, which included a large area being promoted as green space (with a restrictive covenant on it preventing building, but NOT access), and also a woodland area. MSDC used the whole area to calculate a housing unit number of 80 units. This was not a number that the landowners envisaged or were comfortable promoting. Understandably the AONB Partnership assessed this amalgamated area as high impact, as it affected a medieval field system in the south, and also was a large development which would have been out of character with the historic growth of the village. See Appendix 1 for the AONB assessment.

In December 2018 / January 2019 the landowner contacted MSDC and asked them to subdivide the amalgamated area (#780) into the different sites that they had originally promoted within the

SHELAA call for land, and to change the number of units associated with the site, to reflect their aspirations. The subdivision also included the removal of the woodland area and the covenanted green space, as these areas were not available for development, thus substantially reducing the area being promoted. Two new site numbers were generated: #69 (field to the north) being 2.23ha for 22 units, and #971 (field to the south) being 0.86 ha for 12 units. The density aspirations for the sites were guided by pre-application advice for a development on the farm buildings (#68) where the MSDC planner had indicated she wanted to see large detached dwellings in character with the surrounding residential development (for example as per Lewes Road, Sugar Lane and Boxes Lane). The assessment of these two sites by the AONB Partnership in May 2019 was confirmed then to be of high impact (See Appendix 1).

It is unclear which of these assessments was a 'desktop assessment', and which have involved site visits. The landowners met the AONB Planning officer, together with the Parish Council planning consultant on site by coincidence earlier this year (2019). This was by coincidence, as there had been no communication to say that they were visiting the sites. We can only assume that earlier assessments were only desktop exercises.

### **Our Concerns:**

#### **1. Recent AONB re-assessment of site #69 - May 2019**

The new assessment of site #69 does not seem to reflect the reduction in area being promoted, the reduced number of housing units being proposed, nor the fact that this site is now only occupying a modern field system, as per the AONB Partnerships own assessment of field system ages in 2017.

- The site area has reduced from 5.32ha (#780) to 2.23ha (#69)
- The reduction in housing proposed for the site has reduced from 80 units (#780) to 22 units (#69)
- The reduced site (#69) no longer incorporates the medieval fields to the south (new site #971) and occupies modern field systems only. Appendix 3 includes the map of field system ages, taken from the AONB Partnerships assessments of SHELAA sites in October 2018.

The conclusion of high impact for site #69 in May 2019 does not seem to take account or indeed represent the site and the new information that has come forward since the first assessment.

AONB assessments should consider the impact on the AONB in conjunction with the plans of the developer as this is how mitigation can be discussed and a positive outcome for both parties can be achieved.

#### **2. Terminology used to describe site #69 is not objective.**

The description of site #69, specifically under the AONB characterisation category of 'Settlement' is incorrect and misleading. Terminology used forms a negative image of the site, and is not objective.

The description reads: ***‘Jeffreys Farm is a historic farmstead separated from the village by Sugar Lane. The western side of the lane is characterised by dispersed settlement, and development of this site would be uncharacteristic of this area’.***

- The use of the term ‘separated’ from the village, suggests that the area is disconnected from the settlement boundary. This is not the case. The site is adjacent to the built-up area boundary of Horsted Keynes. The fact that this boundary is along a road does not mean it is disconnected from the settlement. The mature woodland to the east of the site forms a substantial screen to existing housing, and would reduce the impact of development for existing residents, two listed buildings (Boxes Farm and Ludwell), and the AONB as a whole, and this screening is noted positively in the description of the site under ‘Public understanding and enjoyment’. See Appendix 4 for the built-up area boundary map.
- The description of Sugar Lane as having ‘dispersed settlement’ along its western side is also misleading. Sugar Lane is a Lane by name, but leads directly in to a section of Lewes Road and Treemans Road, to the south (all sections of the existing highway network). The settlement along the western boundary of this continuation is not dispersed, but a continuous row of 11 predominantly detached houses with large gardens. See Appendix 5 for the detailed map of Sugar Lane and Lewes Road / Treemans Road to the south.
- The description is quick to characterise the western side of Sugar Lane, but omits to describe the eastern side of the lane. The eastern side is a continuous stretch of housing from Station Road in the north, to Lewes Road in the south, running parallel to site #69, again being predominantly detached houses. Sugar Lane is not the rural lane that many might envisage when reading the description, but is a heavily urbanised edge of the village. See Appendix 5 for the detailed map of Sugar Lane and Lewes Road / Treemans Road to the south.
- The comment that suggests that ‘development of this site would be uncharacteristic of this area’, seems to contradict what is clearly shown on maps. The area is already urbanised, with large detached dwellings.

### 3. Uncertainly over the age of the farmstead at Jeffreys Farm

The site assessment for site#69 notes ***‘the probable age of Jeffreys Farm House’***. This is speculation.

Horsted Keynes is a historic village, and it has been serviced by small farmsteads that have gradually been over-run by development. Most notably Rixons Farm (on the Green), and Boxes Farm (on Sugar Lane). These are both listed buildings and are predominantly of a timber construction, clearly medieval in nature.

Jeffreys Farm House is not of a similar construction, being predominantly brick, showing characteristics of Georgian architecture. Within the farmhouse there is an old beam on the internal western wall, but as far as we know there is no date attributed to this construction. A Sussex barn (now dilapidated) has stood on the farm site and is noted on the Tythe map 1842.

None of this definitively points towards the farm, or farmhouse being medieval.



#### **4. Conclusion comments for site #69 show little knowledge or understanding of how Horsted Keynes has developed since the Second World War**

The Conclusion states: '**development would be out of character with the settlement pattern of Horsted Keynes**'.

These concluding comments are ill-informed, and show no understanding of how the village has developed over the last 75 years.

Pre-war, houses were built sporadically, in isolation, and in a scattered pattern across the bounds of the village as we know it today. However, Post-war, the village has grown substantially, and development has occurred as clusters of multiple houses, predominantly in cul-de-sacs, both infilling within the village historic routeways, but also on the edges of the village, jumping the routeways in to open countryside. The developments ranged in number from 6 houses (Rixons Orchard in the 1960's) to tens of houses (Challoners in the 1970's and 1980's). A list of the housing developments with approximate dates and number of housing units is shown below. Appendix 6 shows a map of the location of these housing clusters.

Post war cluster developments in Horsted Keynes:

- **Rixons** (cul-de-sac off Station Road) – 16 semi-detached houses, built pre 1947
- **Jefferies** (through road from Sugar Lane to Lewes Road) – 16 semi-detached houses, built ~1947
- **Boxes Lane** (cul-de-sac off Sugar Lane) – detached houses, 14 built ~1955
- **Lucas** (cul-de-sac off Birch Grove Road) – 12 detached houses, built ~1959
- **Hamsland** (cul-de-sac off Lewes Road) – 11 bungalows, and 10 semi-detached houses, built ~1956 to 1959
- **Rixons Orchard** (cul-de-sac off Station Road) – 6 detached and semi-detached bungalows, built pre 1973
- **Challoners** (extension of cul-de-sac off Lewes Road / Hamsland) – 60 semi-detached houses, built post 1974 to 1980's
- **Cheeleys** - (cul-de-sac off Church Lane) – 12 bungalows, and 8 detached houses, built post 1974
- **Hillcrest** (cul-de-sac off the Green) – 9 semi-detached houses, built ~2000
- Since 2000 only single or double infill dwellings have been built and as a result no more infill opportunities exist in the built-up area boundary of Horsted Keynes today.

The development of Horsted Keynes clearly shows that historically, larger developments have occurred and these have also occurred on the periphery of the village, jumping the old routeways in to open countryside sporadically as the need for housing grew. Whilst there is an understanding that the AONB Partnership seek to limit development, there is no space left within the built-up area boundary of Horsted Keynes for larger developments. In addition small piece-meal development and single dwellings provide no affordable housing for the village.

**5. The AONB assessment of site #69 does not appear to be comparable with other site assessments in the village.**

Several sites across the village have been assessed by the AONB Partnership as part of both the SCHELAA assessment for MSDC, and also for the Neighbourhood Plan of Horsted Keynes. When comparing the high impact conclusion reached in relation to site #69 with other sites that have a high impact rating, there are dramatic discrepancies in the characteristics which suggest that site #69 is not being assessed consistently. In addition, when comparing site #69 to sites with 'Low' and 'Moderate' impacts, again there seems little justification to rate site #69 as high.

The sites in question are listed below, and the full AONB assessments are also shown in Appendix 7:

- Farm Buildings, Jeffreys Farm #68 – 18 units (0.7ha) – **LOW impact**
- Land at Jeffreys Farm #780 – 80 units (NUMBER AND AREA NOT AS PER LANDOWNER PROMOTION) (5.32 ha) – **HIGH impact**
- Land at Jeffreys Farm (Fields to North of farm buildings) #69 – 22 units (AS PER LANDOWNER PROMOTION) (2.23ha) - **HIGH impact**
- Land at Jeffreys Farm (Fields to South of farm buildings) #971 – 12 units (AS PER LANDOWNER PROMOTION) (0.86ha) - **HIGH impact**
- Land west of Church Lane 'Sledging Field' #893 – 38 units (4.3ha) - **HIGH impact**
- Land at Police House Field #216 – 10 units (0.26ha) - **MODERATE impact**
- Land South of Police House Field #807 – 40 units (3.0ha) - **HIGH impact to MODERATE impact (with mitigation)**
- Land South of St Stephens Church #184 – 30 units (1.2ha) – **LOW impact**

Again, I reiterate that it is unclear which of these assessments have been made on the basis of desktop analysis and which sites have actually been visited in person. We understand that the Parish Council planning consultant has been on some sites with the AONB planning officer at some point in 2019, but it is unclear which sites and when.

For ease I will break down the concerns that I have about the way in which site #69 has been assessed in comparison with other sites in the village in to 3 sections: (A) comparing with site #893 in Church Lane; (B) comparing with site # 184 St Stephens Field; and finally (C) comparing to site # 216 and #807 at Police House Field.

**A. Comparing site #69 with site #893 in Church Lane**

Both sites have been deemed high impact by the AONB Partnership, but when comparing the proximity to the Conservation Area of Horsted Keynes, the topography and hence the potential to mitigate any visual impacts of development, the existing screening, and the visibility from public footpaths, the sites are dramatically different.

Appendix 8 shows map located photographs of the sites to compare the impact.

**Site #893:**

- Site #893 is directly adjacent to the Conservation Area and in clear sight of a Grade I listed building (St Giles Church) – refer to photo 7 in Appendix 8, and map of Conservation Area in Appendix 8.

- Site #893 has a public footpath running along its northern boundary, with no existing screening meaning the site is highly visible – refer to photos 9, 10 and 11 in Appendix 8.
- Site #893 has no existing screening on its northern, eastern or western boundaries – refer to photos 6-11 in Appendix 8.
- Site #893 has 25m of elevation gain across the site, meaning any mitigation planting will be ineffective – refer to map of site #893 in Appendix 8.
- Site #893 is assessed as a modern field system by the AONB. See Appendix 3 for the map of field system ages, taken from the AONB assessments of SHELAA sites in October 2018.

**Site #69:**

- Site #69 is some distance from the Conservation Area across the village and is well screened from 2 listed buildings (Ludwell and Boxes Farm) - refer to photos 1 and 2 in Appendix 8.
- Site #69 has no public footpaths in the vicinity – refer to map of site #69 in Appendix 8.
- Site #69 is surrounded by tall mature hedge-lines on all boundaries - refer to photos 1-5 in Appendix 8.
- Site #69 has 10m of elevation gain across the site, enabling any mitigation planting to be effective, if needed – refer to map of site #69 in Appendix 8.
- Site #69 is assessed as a modern field system by the AONB. See Appendix 3 for the map of field system ages, taken from the AONB assessments of SHELAA sites in October 2018

We believe that site #69 is NOT directly comparable to site #893, and cannot be considered to be a high impact site in the AONB.

***B. Comparing site #69 with site # 184 St Stephens Field***

Site #69 has been deemed high impact by the AONB Partnership, yet site #184 is deemed low impact. When comparing the sites visual impact and the existing screening, the sites are quite similar. Yet site #184 requires the removal of mature trees for access, and has little screening to the northern boundary.

Appendix 9 shows map located photographs of the sites to compare the impact.

**Site #184:**

- Site #184 has existing mature screening on the majority of its eastern, southern and western boundaries, with only minimal distant views – refer to photos 12 to 15 in Appendix 9.
- Site #184 has no existing screening on the northern boundary, so would have a high visual impact on the properties to the north and also from the public footpath that runs along Hamsland and Challoners – refer to photos 12, 15 and 16 in Appendix 9.
- Access to site #184 is of limited width (7m), and bounded by mature trees to the west. The developer has said that these trees will need to be removed as

root systems will be severely damaged by the access road. This in itself removes a distinct tree belt, and also a large portion of the existing screening to the site from the west – refer to photos 15 and 16 in Appendix 9.

- Site # 184 concluding remarks do not make comment on the development of the site for 30 units and the impact on the settlement pattern.
- Site #184 is assessed as a medieval field system by the AONB. See Appendix 3 for the map of field system ages, taken from the AONB assessments of SHELAA sites in October 2018

**Site #69:**

- Site #69 is surrounded by tall mature hedge-lines on all boundaries - refer to photos 1-5 in Appendix 8.
- Site #69 has no public footpaths in the vicinity – refer to map of site #69 in Appendix 8.
- Access to site #69 will not involve the removal of any mature trees, on the southern boundary (refer to photo 3 in Appendix 8), nor on the access point on Sugar Lane opposite Jefferies (refer to photo 5a in Appendix 8). This access has been proposed in 2 previous planning applications, and in neither application was there objection to the access by WSCC Highways.
- Site #69 concluding remarks from the assessment say that a development of 22 units is out of character with the settlement pattern.
- Site #69 is assessed as a modern field system by the AONB. See Appendix 3 for the map of field system ages, taken from the AONB assessments of SHELAA sites in October 2018

We believe that site #69 is comparable to site #184, or potentially has even less impact as is a modern field system and no mature trees are being removed to gain access to the site. It should be considered low impact on the AONB, in line with the assessment of site #184.

What is of more concern is that the AONB Partnership consider a development of 22 houses on site #69 to be out of character with the settlement pattern, yet a development of 30 houses on site #184, also outside the built-up area boundary for Horsted Keynes, is not considered out of character, nor even mentioned. Why is the scale of the development not an issue for site #184, yet is a defining conclusion for site #69?

***C. Comparing site #69 to site # 216 and #807 at Police House Field***

Site #69 has been deemed high impact by the AONB Partnership, yet site #216 is deemed low impact and site #807 high impact. Site #216 is just the strip of Police House field along the Birch Grove Road to the junction with Danehill Lane. Site #807, is the extension of the field behind the Police House, and a second field to the south, with a mature hedge-line separating the two.

When comparing the sites with site #69 in relation to the boundary screening to the east, south and west, the sites are quite similar. Yet site #216 requires the likely removal of a distinct mature tree for access, has a mature hedge-line running across the site which could be threatened, has a footpath running across the site, and has little screening to the northern boundary. Appendix 10 shows map located photographs of the sites to compare the impact.

**Site #216/807:**

- Site #216 is clearly visible from Birch Grove Road and if developed will be the first glimpse of housing as you enter the village from the east - refer to photo 23 in Appendix 10.
- Site #216 is directly opposite and in clear line of sight to a listed building, Lucas Farm - refer to photo 23 in Appendix 10.
- Site #216 has no existing boundary on the southern side and is open field (site #807), and the northern boundary is an overgrown hedge that the majority of will need to be removed to create access - refer to photos 18 and 20 in Appendix 10.
- Access to site #216 will most likely need the removal of a distinct mature oak in the roadside verge to enable visibility splays - refer to photo 23 in Appendix 10.
- Site #807 has a footpath crossing the site, so visual impact along that open field footpath will be high - refer to photos 19 and 22 in Appendix 10.
- Site #807 is clearly visible from Danehill Lane, as you enter the village from the east - refer to photo 23 in Appendix 10.
- Site #807 has predominantly mature screening on its eastern, southern and western boundaries - refer to photos 17, 21 and 22 in Appendix 10.
- Site #807 has little mature screening along its northern boundary adjoining the residential houses.
- Site #807 is directly adjacent to the Conservation Area along a small section of its western boundary - refer to photo 21 in Appendix 10, and the Conservation Area map in Appendix 8.
- Site #807 has a mature hedge-line running across the site, which could be under threat from development - refer to photo 19 in Appendix 10.
- Site #807 is assessed as a medieval field system by the AONB. See Appendix 3 for the map of field system ages, taken from the AONB assessments of SHELAA sites in October 2018.

**Site #69:**

- Site #69 is surrounded by tall mature hedge-lines on all boundaries - refer to photos 1-5 in Appendix 8.
- Site #69 has no public footpaths in the vicinity – refer to map of site #69 in Appendix 8.
- Site #69 is not close to the Conservation Area, but is well screened from 2 listed buildings (Ludwell and Boxes Farm) - refer to photos 1 and 2 in Appendix 8.
- Site #69 has no hedge-lines running across the site at risk from development.

- Access to site #69 will not involve the removal of any mature trees, on the southern boundary (refer to photo 3 in Appendix 8), nor on the access point on Sugar Lane opposite Jefferies (refer to photo 5a in Appendix 8). This access has been proposed in 2 previous planning applications, and in neither application was there objection to the access by WSCC Highways.
- Site #69 is assessed as a modern field system by the AONB. See Appendix 3 for the map of field system ages, taken from the AONB assessments of SHELAA sites in October 2018

The comparison of these sites and their assessments is again confusing and seems to be in contradiction regarding field system ages, visibility from routeways and footpaths. How is a development of 40 houses on a site that is visible at the entrance to the village, comparable to a site that is well screened and only for 22 houses?

**6. The AONB assessment of sites seems to be a simple and basic qualitative process, rather than a quantitative process and as a result is open to wildly different interpretation by different assessors.**

The current AONB assessments appear to use a solely descriptive element, which as we have shown, is open to substantially different interpretation. There is no apparent assessment matrix, or methodology statement attached to the determination of impact. If this does exist in the background this information should be made publicly available, as the process to assess sites should be transparent and the methodology for decision making made clear.

If an assessment matrix or defined methodology does not exist (as it appears not to) there should at the very least be a more robust and reproducible assessment for each element that is being assessed, such as a simple traffic light system, as MSDC do with the SHELAA assessments.

Assessment made by the AONB Partnership are being used by Local Authorities and Parish Councils to rank sites, and although the AONB Partnership describe their assessments as 'advice' it is being used as evidence to influence decisions being made, and is being weighted heavily. The inconsistency and lack of identifiable methodology for assessments calls in to question their validity. This opens up the AONB Partnership to unnecessary scrutiny, that could be avoided by a more pragmatic approach that is auditable. Sometimes employing a simplistic approach is appropriate, but in this case a more robust assessment is required given the gravity and weight being applied in decision making.

**Conclusion:**

We would like to challenge the assessment that the AONB Partnership have given to both the Horsted Keynes Parish Council in relation to their Neighbourhood Plan, and also Mid Sussex District Council with regards to their local plan formulation and SHELAA site assessments, for the site described as #69 Jeffreys Farm fields to north.



The AONB Partnerships assessment of site #69 does not appear to be a robust or consistent assessment, when compared to how other sites in the village of Horsted Keynes have been considered. The lack of identifiable methodology of the assessment leaves it open to interpretation and ultimately criticism. Sites in close proximity are not compared comprehensively with site #69, and as a result we believe that a full reassessment of all Horsted Keynes sites with a comprehensive and clear methodology should be undertaken. This should also be applied to all AONB assessments provided to MSDC and other parishes preparing Neighbourhood Plans.

We understand that the AONB Partnership have limited resources, but their advice is being used as evidence to justify planning decisions and it should be able to be scrutinised objectively.

There have been a number of concerns raised about the high impact conclusion for site #69 not just by local residents but also by planning professionals not associated with our own applications. As landowners we are challenging this assessment on behalf of the community as the site #69 on Jeffreys farm has local support, yet is being excluded from development solely due to the AONB impact assessment.

## Appendix 1 – AONB assessments of Jeffreys Farm sites in Horsted Keynes

### Farm Buildings, Jeffreys Farm #68 – 18 units (0.7ha)

Assessment from High Weald AONB Advice on Horsted Keynes SHELAA Sites Oct 2018 – **LOW**

#### IMPACT

SHELAA Reference 68	Farm buildings, Jeffreys Farm, Horsted Keynes	18 units
<b>Geology, landform, water systems and climate</b> <i>Topography and watercourses</i>	Reasonably flat farmyard of mainly modern buildings. No watercourses mapped.	
<b>Settlement</b> <i>Historic settlement pattern and scale of development relative to settlement</i>	Originally farm buildings for historic farmstead Jeffreys Farm. Separated from main village by farmland and Sugar Lane. Design of development would need to reflect farmstead model rather than sub-urban layout.	
<b>Routeways</b> <i>Impact on adjacent historic routeways, ecology and archaeology</i>	Sugar Lane is a historic routeway.	
<b>Woodland</b> <i>On site and adjacent woodland and ancient woodland including downstream</i>	No woodland on or adjacent to site but mature trees on boundaries and within site.	
<b>Field and heath</b> <i>Field systems and meadows / heathland data</i>	Not classified as a field in the Historic Landscape Characterisation.	
<b>Public Understanding and Enjoyment</b> <i>Views, PROWs, public open space</i>	Secluded site with limited public views.	
<b>Conclusion</b>	Low impact on AONB provided the design of the development reflects a farmstead model.	

### Land at Jeffreys Farm #780 – 80 units (NUMBER AND AREA NOT AS PER LANDOWNER PROMOTION) (5.32 ha)

Assessment from High Weald AONB Advice on Horsted Keynes SHELAA Sites Oct 2018 – **HIGH**

#### IMPACT

SHELAA 780	Land at Jeffery's Farm, Sugar Lane, Horsted Keynes	80 units
<b>Geology, landform, water systems and climate</b> <i>Topography and watercourses</i>	Undulating fields around and including farmyard (site 68). No watercourses mapped.	
<b>Settlement</b> <i>Historic settlement pattern and scale of development relative to settlement</i>	Jeffreys Farm is a historic farmstead separated from the village by Sugar Lane. The western side of the lane is characterised by dispersed settlement and development of this site would be uncharacteristic of this area. The scale of development is significant for the size of the village.	
<b>Routeways</b> <i>Impact on adjacent historic routeways, ecology and archaeology</i>	Sugar Lane and Keysford Lane are historic routeways.	
<b>Woodland</b> <i>On site and adjacent woodland and ancient woodland including downstream</i>	There is an area of Ancient Woodland to the south-west of the site and mature trees on field boundaries and within the site. There is a dense screen of trees alongside Sugar Lane and at the junction with Keysford Lane which probably marks the original wider junction for driving stock.	
<b>Field and heath</b> <i>Field systems and meadows / heathland data</i>	Partly medieval and partly post-medieval field system, the latter due to more recent field amalgamations. Given the probable age of Jeffreys Farmhouse it is likely that the whole farmstead is medieval in origin.	
<b>Public Understanding and Enjoyment</b> <i>Views, PROWs, public open space</i>	Very limited views into the site from routeways due to mature hedgerows and trees.	
<b>Conclusion</b>	High impact on AONB due to loss of medieval fields and development out of scale and character with the settlement pattern of Horsted Keynes.	

Land at Jeffreys Farm #69 (fields to North) – 22 units (AS PER LANDOWNER PROMOTION) (2.23 ha)

Assessment from High Weald AONB Advice on Horsted Keynes SHELAA Sites May 2019 – **HIGH IMPACT**

SHELAA Site 69 (part of site 780)	Land at Jeffery's Farm, Sugar Lane, Horsted Keynes (the northern field of site 780)	22 units
<b>Geology, landform, water systems and climate</b> <i>Topography and watercourses</i>	Undulating field to the north of the farmyard site. No watercourses mapped.	
<b>Settlement</b> <i>Historic settlement pattern and scale of development relative to settlement</i>	Jeffreys Farm is a historic farmstead separated from the village by Sugar Lane. The western side of the lane is characterised by dispersed settlement and development of this site would be uncharacteristic of this area.	
<b>Routeways</b> <i>Impact on adjacent historic routeways, ecology and archaeology</i>	Sugar Lane and Keysford Lane are historic routeways.	
<b>Woodland</b> <i>On site and adjacent woodland and ancient woodland including downstream</i>	Mature trees on field boundaries and a dense screen of trees alongside Sugar Lane and at the junction with Keysford Lane which probably marks the original wider junction for driving stock.	
<b>Field and heath</b> <i>Field systems and meadows / heathland data</i>	Post-medieval field system due to more recent field amalgamations. Given the probable age of Jeffreys Farmhouse it is likely that the whole farmstead is medieval in origin.	
<b>Public Understanding and Enjoyment</b> <i>Views, PROWs, public open space</i>	Very limited views into the site from routeways due to mature hedgerows and trees.	
<b>Conclusion</b>	High impact on AONB as development would be out of character with the settlement pattern of Horsted Keynes.	

Land at Jeffreys Farm #971 (fields to South) – 12 units (AS PER LANDOWNER PROMOTION) (0.86 ha)

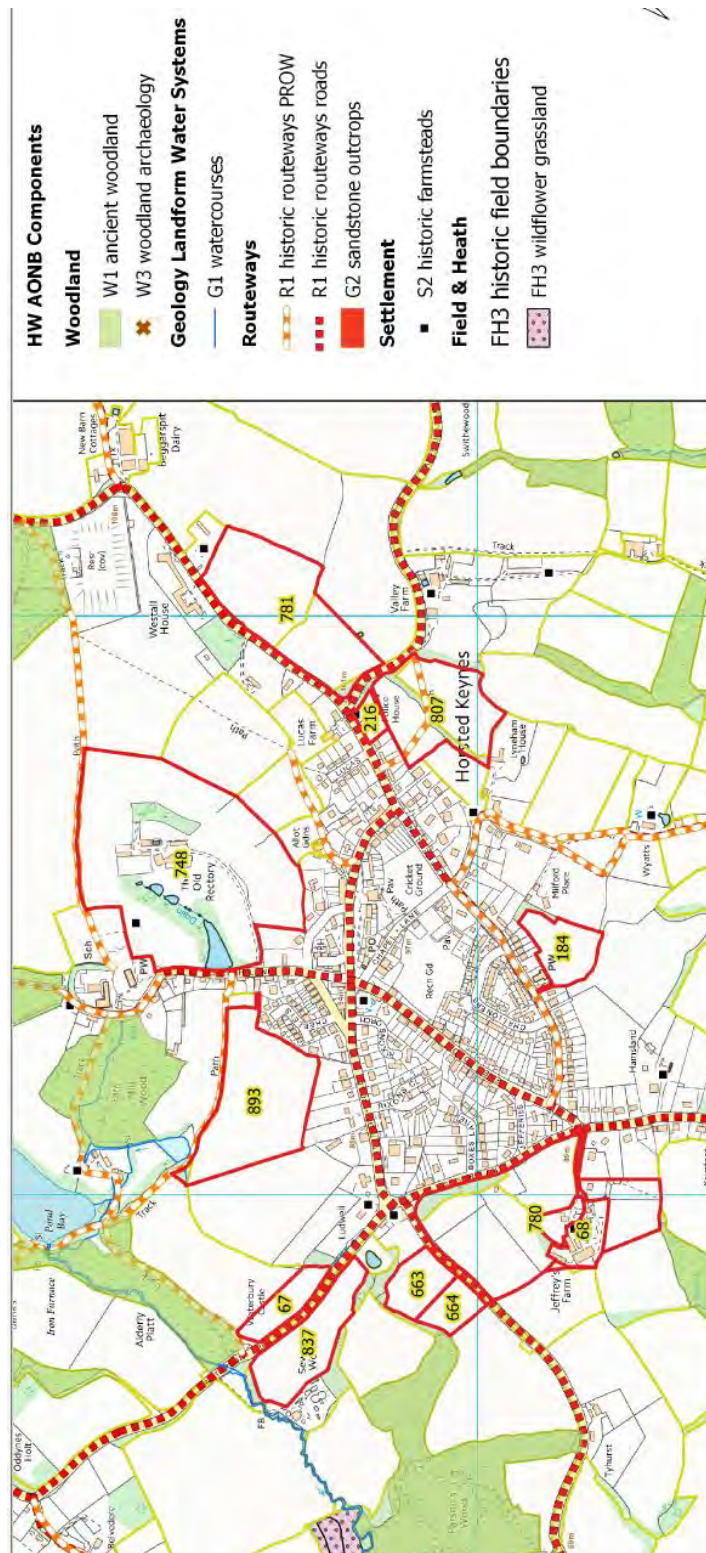
Assessment from High Weald AONB Advice on Horsted Keynes SHELAA Sites May 2019 – **HIGH IMPACT**

SHELAA Site 971 (part of site 780)	Land at Jeffery's Farm, Sugar Lane, Horsted Keynes (the southern field of site 780, south of site 68)	12 units
<b>Geology, landform, water systems and climate</b> <i>Topography and watercourses</i>	Undulating field to south of farmyard (site 68). No watercourses mapped.	
<b>Settlement</b> <i>Historic settlement pattern and scale of development relative to settlement</i>	Jeffreys Farm is a historic farmstead separated from the village by Sugar Lane. Location of access unclear and this site is detached from any existing part of the settlement. The western side of Sugar Lane is characterised by dispersed settlement and development of this site would be uncharacteristic of this area.	
<b>Routeways</b> <i>Impact on adjacent historic routeways, ecology and archaeology</i>	Sugar Lane and Keysford Lane are historic routeways.	
<b>Woodland</b> <i>On site and adjacent woodland and ancient woodland including downstream</i>	There is an area of Ancient Woodland to the south-west of the site and mature trees on field boundaries.	
<b>Field and heath</b> <i>Field systems and meadows / heathland data</i>	Part of a medieval field system. Given the probable age of Jeffreys Farmhouse it is likely that the whole farmstead is medieval in origin.	
<b>Public Understanding and Enjoyment</b> <i>Views, PROWs, public open space</i>	No views into the site from public viewpoints due to mature hedgerows and trees and residential curtilages.	
<b>Conclusion</b>	High impact on AONB due to loss of medieval field and development out of character with the settlement pattern of Horsted Keynes.	

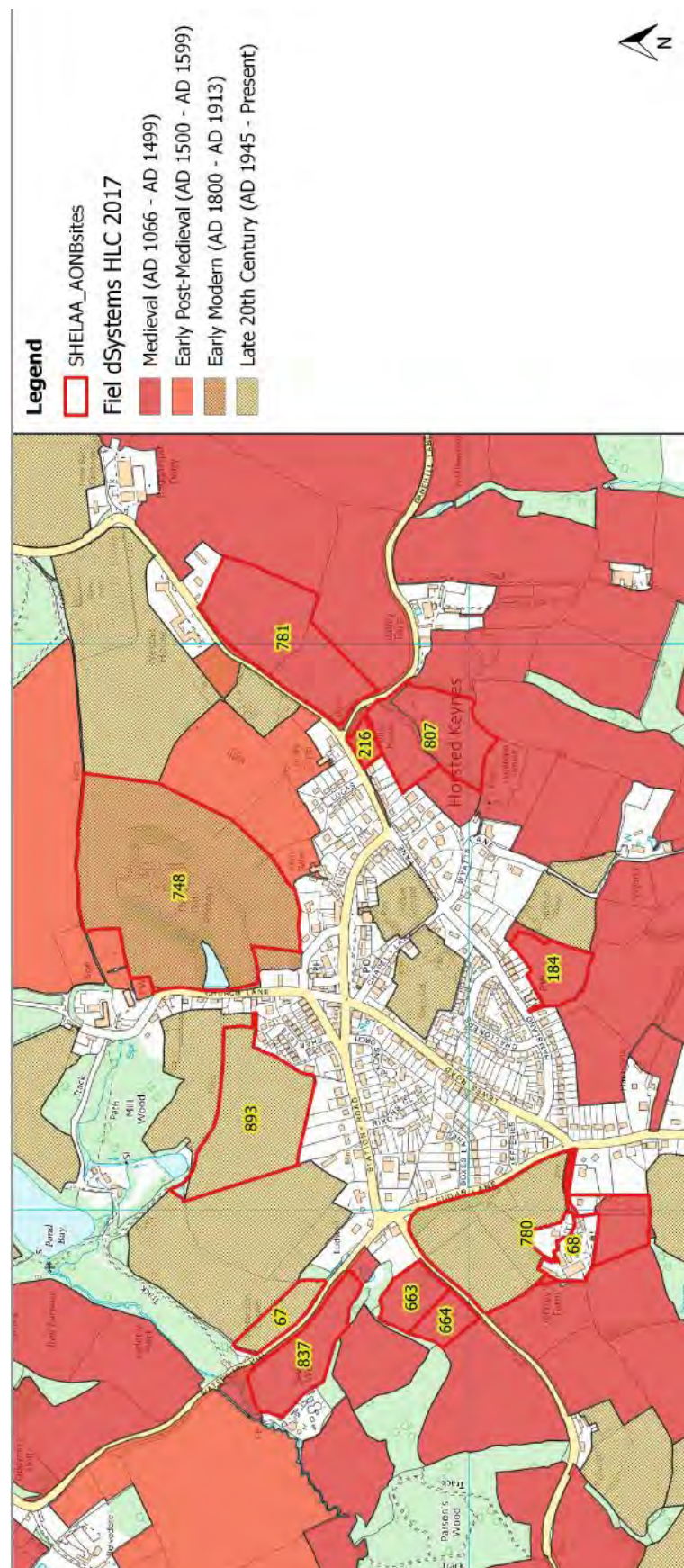


## Appendix 2 – Map of sites assessed – taken from the AONB report dated Oct 2018

Note that Site #780 at Jeffreys farm was amalgamated by MSDC, and has since been re-subdivided in to 2 sites: site #69 (northern field) and site #971 (southern field) – eastern field withdrawn from SHELAA assessment.

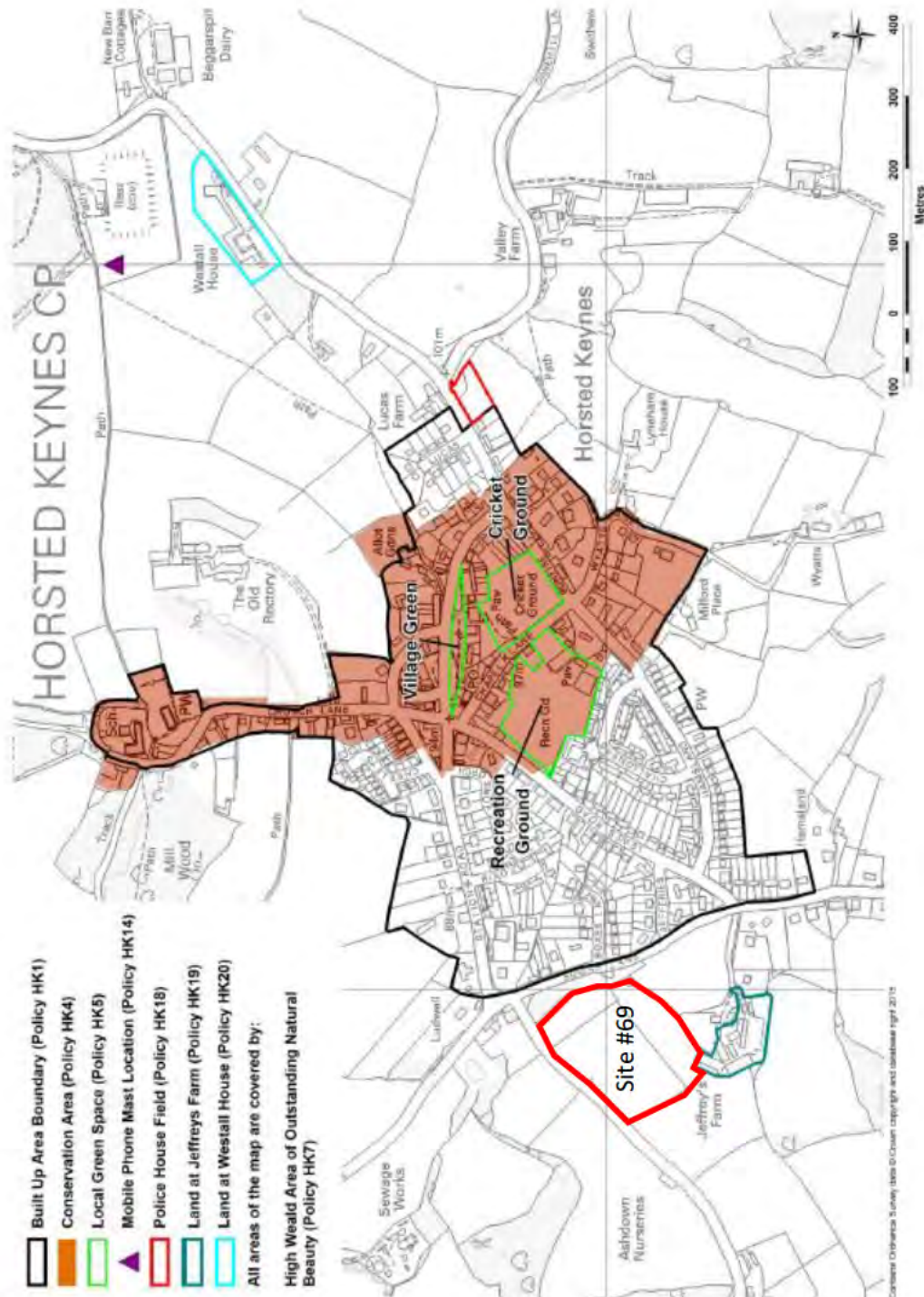


# Appendix 3 – Map of field system ages from AONB assessment dated 2017 – taken from the AONB report dated Oct 2018





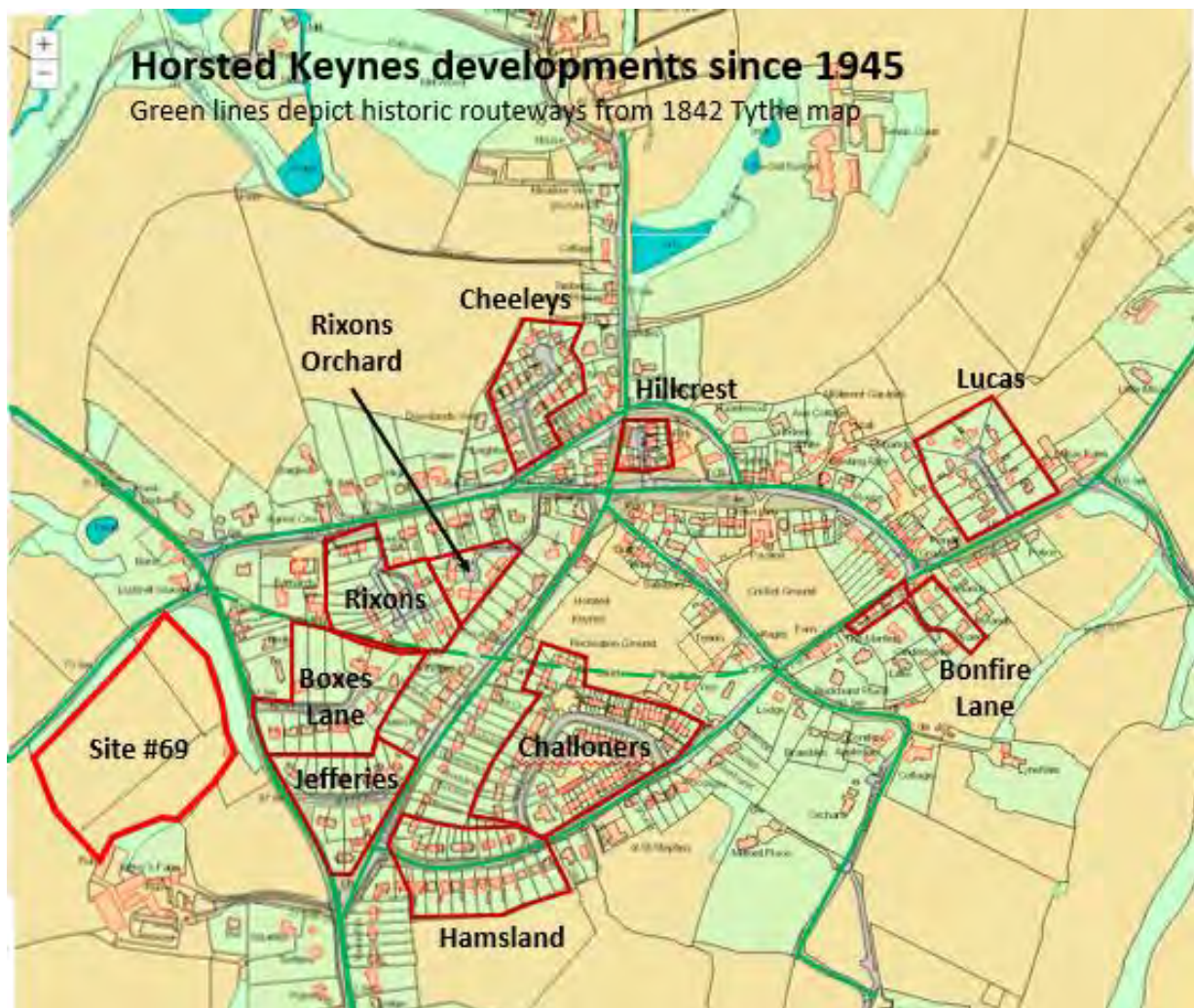
Appendix 4 – Map of Horsted Keynes Built up area Boundary – from the Horsted Keynes Neighbourhood Plan (submitted Nov 2017, withdrawn July 2018), with site #69 added in red outline







Appendix 6 – Map of Horsted Keynes showing the location of cluster development in the village since the war (base map from the MSDC planning website 2019, date information from OS maps and aerial photos as listed)



Maps / Aerial images used:

- Horsted Keynes Tythe Map 1842
- Horsted Keynes OS Maps 1874 (six inch to the mile)
- Horsted Keynes OS Maps 1896 (six inch to the mile)
- Horsted Keynes OS Maps 1909 (six inch to the mile)
- Horsted Keynes OS Maps 1938 (six inch to the mile)
- Aerial photograph 1947
- Horsted Keynes OS Maps 1956 (six inch to the mile)
- Horsted Keynes OS Maps 1961 (1:10000)
- Horsted Keynes OS Maps 1957 (1:25000)
- Horsted Keynes OS Maps 1974 (1:25000)
- Google earth satellite images 2001



## Appendix 7 – AONB assessments of other specific sites in Horsted Keynes

### Land West of Church Lane ‘Sledging Field’ #893 – 38 units (4.3ha)

Assessment from High Weald AONB Advice on Horsted Keynes SHELAA Sites Oct 2018 – **HIGH IMPACT**

SHELAA Reference 893	Land west of Church Lane, Horsted Keynes	38 units
<b>Geology, landform, water systems and climate</b> <i>Topography and watercourses</i>	Very steep site sloping down to north boundary. Pond in north-east corner.	
<b>Settlement</b> <i>Historic settlement pattern and scale of development relative to settlement</i>	Part of the gap between the Saxon settlement around the Church and original location of the Manor House (now occupied by the school) and the later medieval village around the intersecting routeways and commons to the south.	
<b>Routeways</b> <i>Impact on adjacent historic routeways, ecology and archaeology</i>	Church Lane is a historic routeway. A historic PROW runs along the north boundary.	
<b>Woodland</b> <i>On site and adjacent woodland and ancient woodland including downstream</i>	No woodland on the site but Ancient Woodland to the east and downstream from the pond.	
<b>Field and heath</b> <i>Field systems and meadows / heathland data</i>	Post medieval field system due to amalgamation of smaller fields.	
<b>Public Understanding and Enjoyment</b> <i>Views, PROWs, public open space</i>	Site is very visible from the PROW. Its development would detract from the public enjoyment of this historic landscape.	
<b>Conclusion</b>	High impact on the AONB due to damage to the settlement pattern of a Saxon village around the Church and a later medieval village around the intersecting routeways and commons to the south.	

### Land at Police House Field #216 – 10 units (0.26ha)

Assessment from High Weald AONB Advice on Horsted Keynes SHELAA Sites Oct 2018 – **MODERATE IMPACT**

SHELAA Reference 216	Land at Police House Field, Birch Grove Road/Danehill Lane, Horsted Keynes	10 units
<b>Geology, landform, water systems and climate</b> <i>Topography and watercourses</i>	Reasonably flat site but high. No watercourses mapped.	
<b>Settlement</b> <i>Historic settlement pattern and scale of development relative to settlement</i>	Adjacent to a row of houses of varying ages. Reasonably well-related to village depending on design, which should be linear in character with existing development. This could reduce capacity.	
<b>Routeways</b> <i>Impact on adjacent historic routeways, ecology and archaeology</i>	Birchgrove Road and Danehill Lane are both historic routeways.	
<b>Woodland</b> <i>On site and adjacent woodland and ancient woodland including downstream</i>	No Ancient Woodland on or adjacent to site but there is a small copse around the junction of routeways which probably marks the original wider junction for driving stock.	
<b>Field and heath</b> <i>Field systems and meadows / heathland data</i>	Part of a medieval field system according to HLC, albeit not intact due to development inserted along Birchgrove Road.	
<b>Public Understanding and Enjoyment</b> <i>Views, PROWs, public open space</i>	Some limited views from Birchgrove Road, Danehill Lane screened by trees.	
<b>Conclusion</b>	Moderate impact on AONB due to potential impact on historic routeway junction and difficulty of accommodating 10 units in a linear way. A lower number of units could reduce the impact.	

## Land South of Police House #807 – 40 units (3.0 Ha)

Assessment from High Weald AONB Advice on Horsted Keynes SHELAA Sites Oct 2018 – **HIGH**

**IMPACT to MODERATE IMPACT with mitigation**

SHELAA Reference 807	Land South of The Old Police House, Birchgrove Road, Horsted Keynes	40 units
<b>Geology, landform, water systems and climate</b> <i>Topography and watercourses</i>	Slightly sloping to south, no watercourses mapped.	
<b>Settlement</b> <i>Historic settlement pattern and scale of development relative to settlement</i>	Site comprises two fields to the south of row of houses along Birchgrove Road. The northerly field is better related to the settlement than the southerly one. Access via Birchgrove Road (via site 216) would be needed to integrate with the village. Access onto Danehill Lane would make development too isolated and separate from existing village core.	
<b>Routeways</b> <i>Impact on adjacent historic routeways, ecology and archaeology</i>	Birchgrove Road and Danehill Lane are historic routeways.	
<b>Woodland</b> <i>On site and adjacent woodland and ancient woodland including downstream</i>	No woodland on or adjacent to the site but some mature trees in field boundaries.	
<b>Field and heath</b> <i>Field systems and meadows / heathland data</i>	Part of a medieval field system.	
<b>Public Understanding and Enjoyment</b> <i>Views, PROWs, public open space</i>	Limited view of site from Danehill Lane access.	
<b>Conclusion</b>	High impact on AONB due to loss of medieval fields and development too isolated and separate from existing village core uncharacteristic of its settlement pattern. If access available from Birchgrove Road and development restricted to northern field, impact would be moderate.	

## Land south of St Stephens Church #184 – 30 units (1.2ha)

Assessment from High Weald AONB Advice on Horsted Keynes SHELAA Sites Oct 2018 – **LOW**

**IMPACT**

SHELAA Reference 184	Land south of St. Stephens Church, Hamsland, Horsted Keynes	30 units
<b>Geology, landform, water systems and climate</b> <i>Topography and watercourses</i>	Reasonably flat site but high. No watercourses mapped.	
<b>Settlement</b> <i>Historic settlement pattern and scale of development relative to settlement</i>	Immediately to south of modern development in Hamsland. Reasonably well-related to village depending on design.	
<b>Routeways</b> <i>Impact on adjacent historic routeways, ecology and archaeology</i>	Hamsland follows the route of a historic PROW.	
<b>Woodland</b> <i>On site and adjacent woodland and ancient woodland including downstream</i>	No woodland on or adjacent to site but mature trees on boundaries and within site.	
<b>Field and heath</b> <i>Field systems and meadows / heathland data</i>	Part of a medieval field system according to HLC, but not intact due to church and development inserted along Hamsland.	
<b>Public Understanding and Enjoyment</b> <i>Views, PROWs, public open space</i>	Some limited views from Hamsland.	
<b>Conclusion</b>	Low impact on AONB.	



## Appendix 8 – Map located photographs of site #69 Jeffreys Farm, and site #893 Church Lane

### SITE #69 Jeffreys Farm north field

Note Topography – 10m elevation difference from top to bottom of site  
Note lack of any footpaths in vicinity



Photo 1 – View north from site #69 towards Ludwell (Listed building)

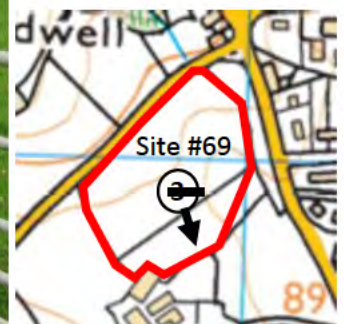




**Photo 2 – View north-east from site #69 towards Boxes Farm (listed building)**

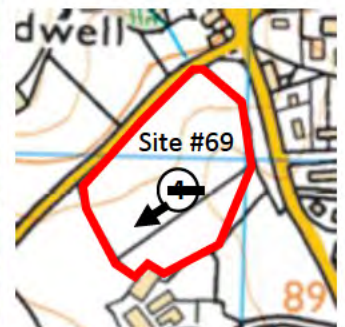


**Photo 3 – View south from site #69 towards Jeffreys Farmhouse**

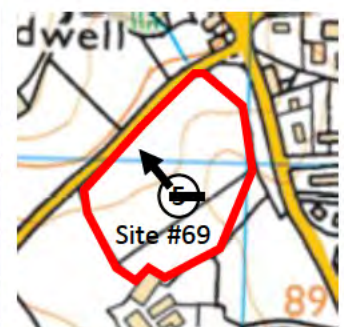
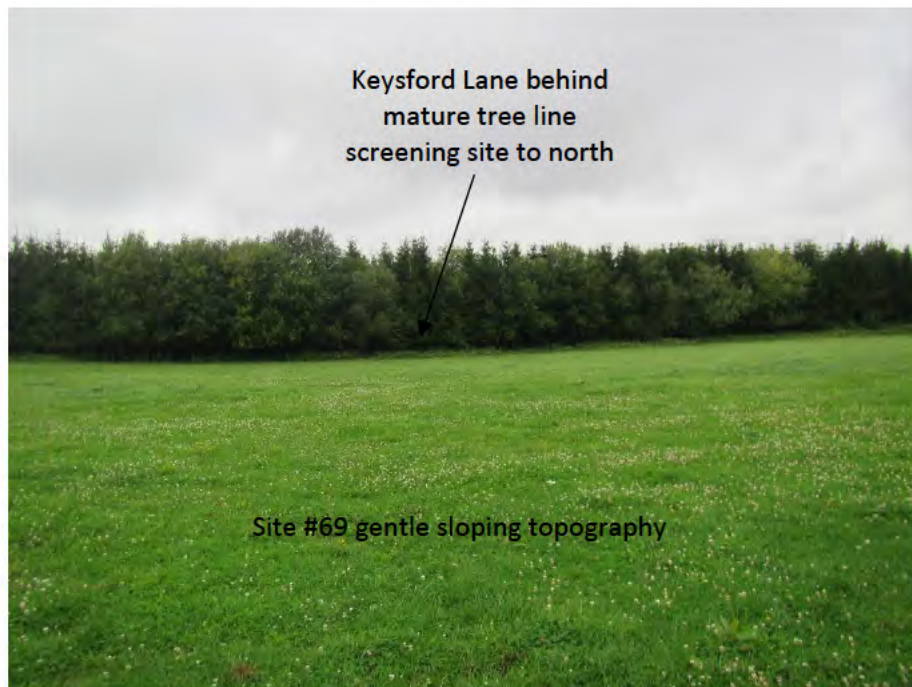




**Photo 4 – View south-west from site #69**



**Photo 5 – View north-west from site #69 towards Keysford Lane**





**Photo 5a – View west from Jefferies across Sugar Lane to the access point in to site #69**



### SITE #893 Church Lane

Note Topography – 25m elevation difference from top to bottom of site

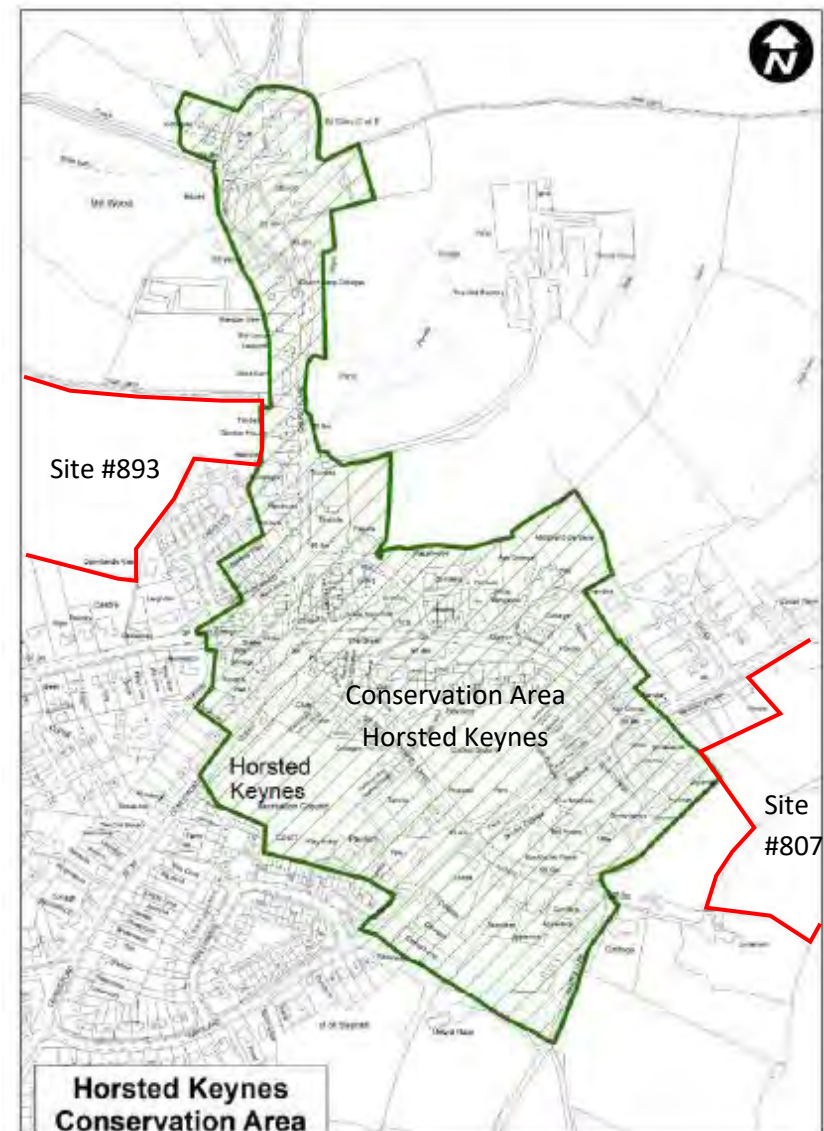
Note footpath along northern boundary

Note proximity to church (Grade I listed)

Note proximity to conservation area

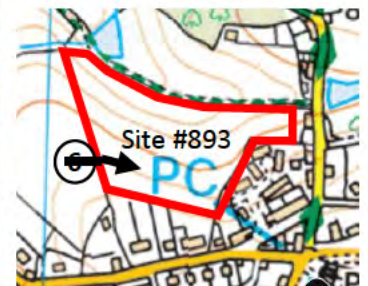


Map showing Horsted Keynes Conservation Area (taken from MSDC document dated August 2018). Conservation Area outlined in green. Note Site #893 and Site #807 (both outlined in red) directly adjacent to Conservation Area.

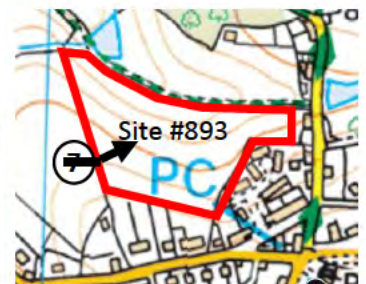
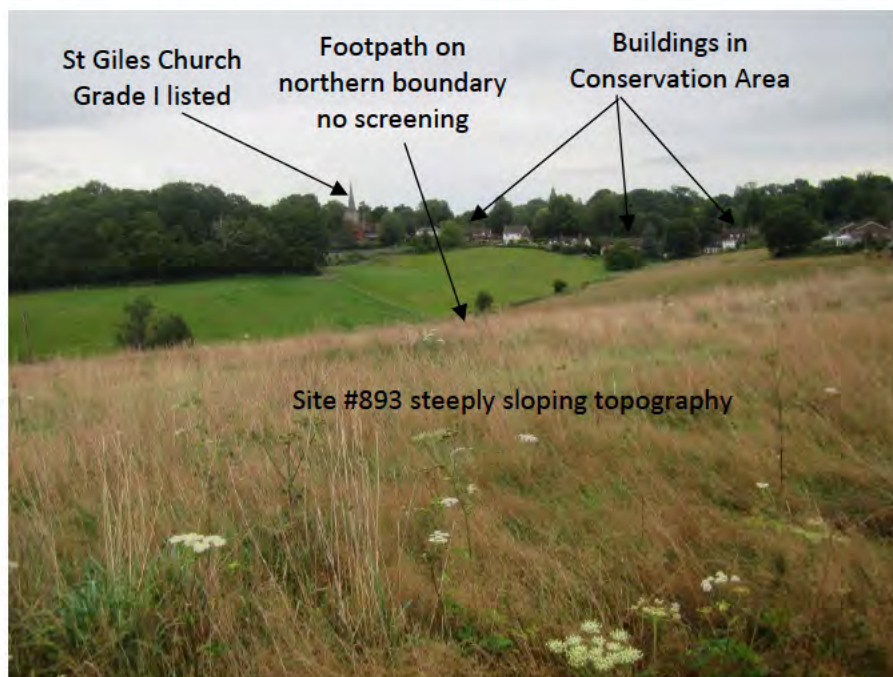




**Photo 6 – View east across site #893 towards Cheeleys**

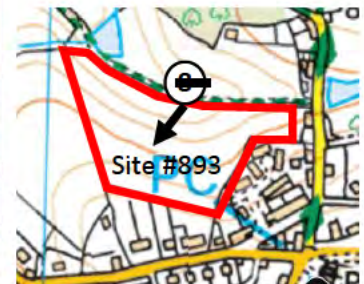
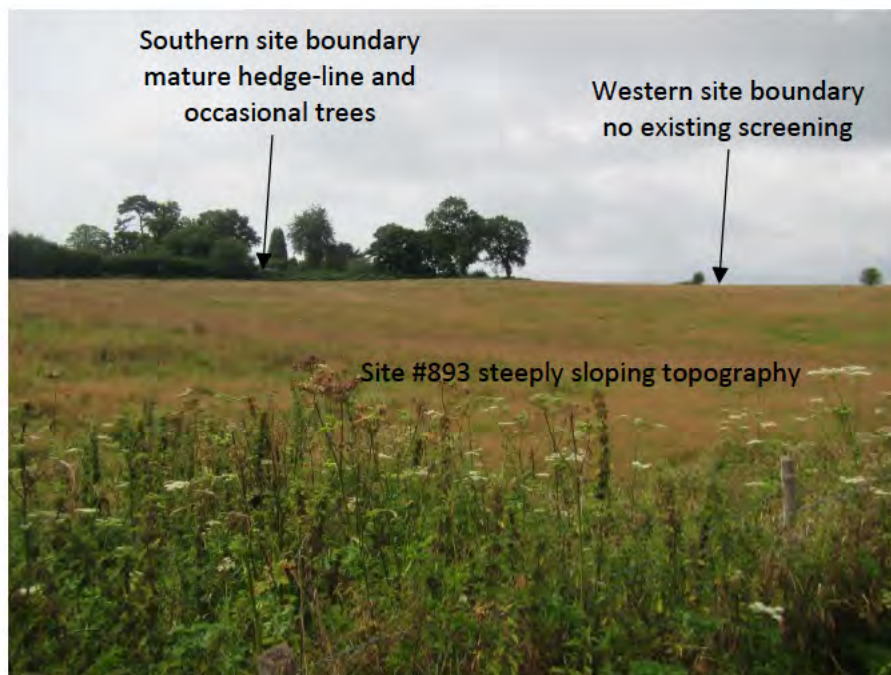


**Photo 7 – View north-east across site #893 towards St Giles Church and the Conservation Area**

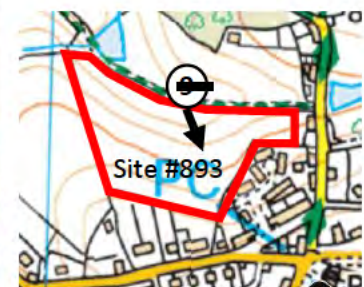




**Photo 8** – View south-west across site #893

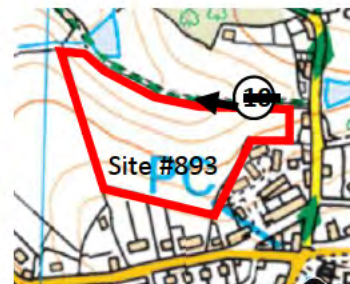


**Photo 9** – View south-east across site #893 towards Cheeleys

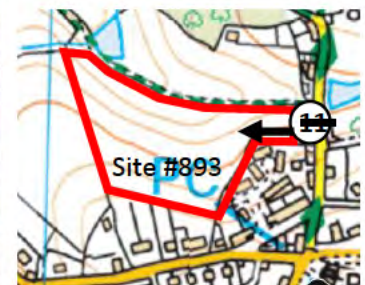




**Photo 10** – View east along the northern boundary of site #893 looking along the public footpath



**Photo 11** – View west across site #893



## Appendix 9 – Map located photographs of site #184 St Stephens Field

### SITE #184 St Stephens Field

Note footpath close to northern boundary



Photo 12 – View east across site #184





**Photo 13 – View south-east across site #184**

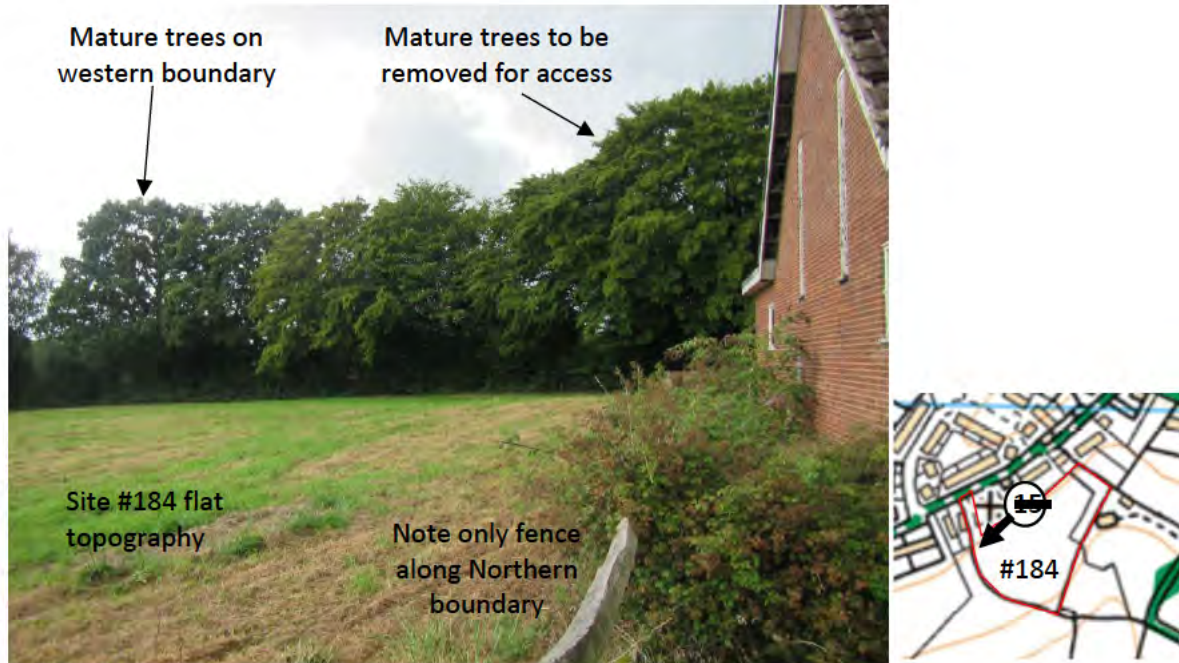


**Photo 14 – View south across site #184**





**Photo 15** – View south-west across site #184 looking along northern boundary to site. Note as per the developers plans the trees to the right of the picture will all be removed as access road will affect root systems.



**Photo 16** – View South across site #184 entrance. Note the entrance is between the post and rail fence and the treeline. The developer has said the mature trees will need to be removed for access as the access road will severely affect their root systems.



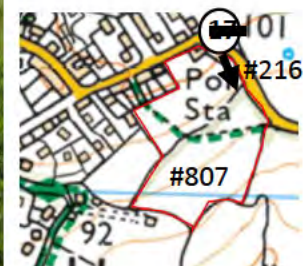
## Appendix 10 – Map located photographs of site #216/807 Police House Field

### SITE #216 / 807 Police House Field

Note Topography – 20m elevation difference from top to bottom of site  
Note footpath across centre of site

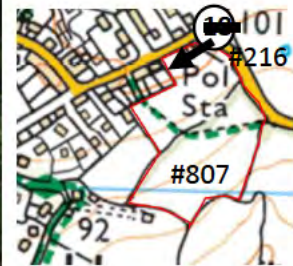


Photo 17 – View south-west across site #216 and #807.

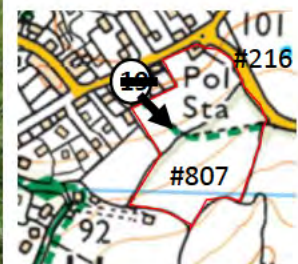
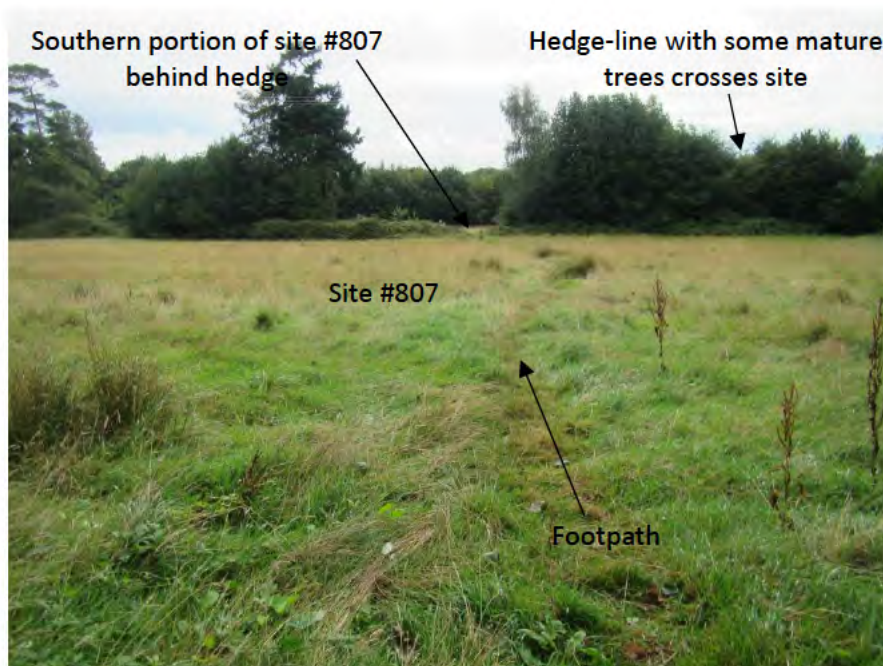




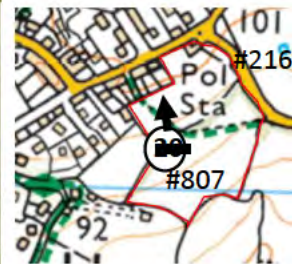
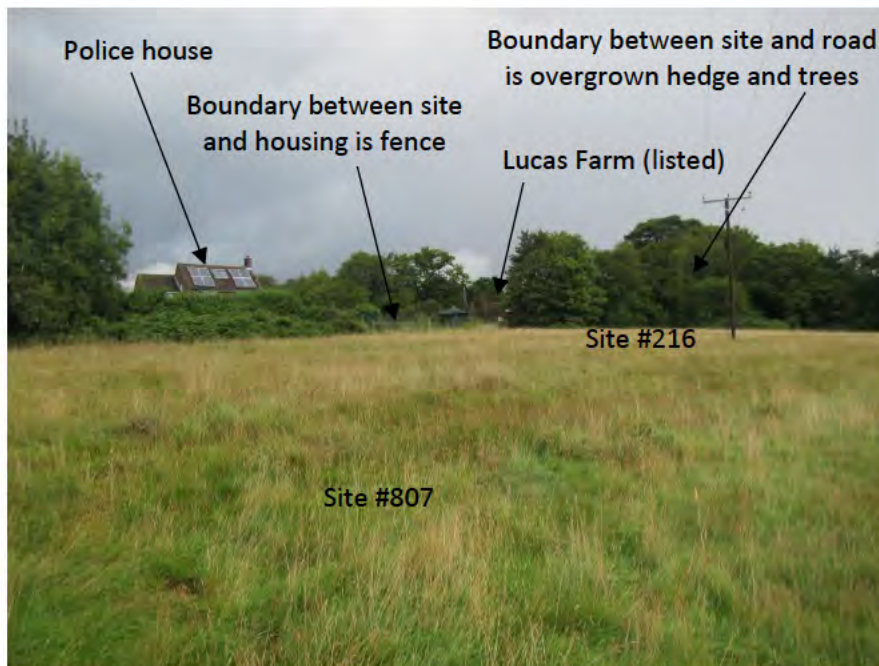
**Photo 18** – View west across site #216 towards Police House.



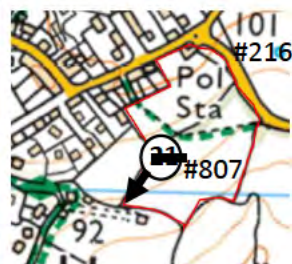
**Photo 19** – View south-west across site #807 looking down the footpath that crosses the site.



**Photo 20** – View north across site #807 looking towards Police House from footpath, towards the strip of site #216 along Birch Grove Road.

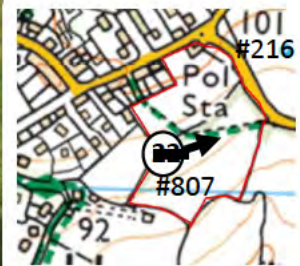


**Photo 21** – View south-west along the Western boundary of site #807

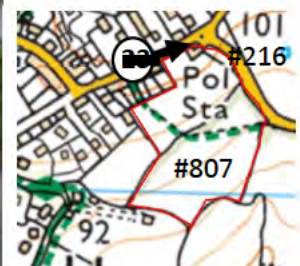




**Photo 22 – View east along the footpath that crosses site #807**



**Photo 23 – View east along the northern boundary of site #216 along Birch Grove Road – access to the site will be here.**





## **Response to challenge to AONB impact assessments of sites in Horsted Keynes**

### The High Weald AONB Unit

The High Weald was designated in 1983 as an Area of Outstanding Natural Beauty. It is an exceptionally beautiful medieval landscape covering 564 square miles across the counties of East and West Sussex, Kent and Surrey.

The High Weald AONB Joint Advisory Committee (JAC) is a partnership established in 1989 of 15 local authorities, Defra, Natural England and organisations representing farming, woodland, access and community interests. The JAC is responsible for publishing and monitoring the statutory AONB Management Plan. The JAC is supported by a small, dedicated staff team, the High Weald AONB Unit, which provides advice on how to conserve and enhance the AONB. The advice provided by the AONB Unit assists public bodies and statutory undertakers to meet their duty as set out in Section 85 of the Countryside and Rights of Way Act 2000 to have regard to the purpose of conserving and enhancing the natural beauty of AONBs in making decisions that affect it. Due to the national importance of this landscape, 75% of our funding comes from central government.

Unlike National Park authorities, the High Weald AONB Unit is not a statutory body but an advisory one. It is not a local planning authority and the responsibility for determining planning applications and plan-making remains with the 15 local authorities. In the case of neighbourhood plans, the responsibility for preparing them lies with the Town and Parish Councils and for making (adopting) them with the 11 District and Borough Councils.

The scope of the advice provided by the High Weald AONB Unit is set by the statutory High Weald AONB Management Plan, which has been adopted by all partner authorities, as 'their policy for the management of the area and for the carrying out of their functions in relation to it'.

### Background to the Advice on SHELAA Sites

Mid Sussex District Council produces a Strategic Housing and Economic Land Availability Assessment (SHELAA) to inform its plan-making and this document is also used by the Town and Parish Councils within Mid Sussex to inform their neighbourhood plans where they have chosen to allocate sites. The methodology for the SHELAA is guided by the National Planning Policy Framework and Planning Practice Guidance and is set out in detail at <https://www.midsussex.gov.uk/planning-building/strategic-housing-and-economic-land-availability-assessment/>

In the autumn of 2018 both Mid Sussex District Council and Horsted Keynes Parish Council requested assistance from the High Weald AONB Unit to assess the impact of potential sites on the AONB. This advice would then feed into the overall site assessments carried out by both organisations, which would also take into account other relevant matters.



In October 2018 the High Weald AONB Unit provided Horsted Keynes Parish Council with a report titled 'High Weald AONB Advice on Horsted Keynes SHELAA Sites' to inform its neighbourhood planning process. This report assessed the following SHELAA Sites for impact on the AONB:

- Site 68 Farm buildings, Jeffreys Farm, Horsted Keynes 18 units
- Site 184 Land south of St. Stephens Church, Hamsland, Horsted Keynes 30 units
- Site 216 Land at Police House Field, Birch Grove Road/Danehill Lane, Horsted Keynes 10 units
- Site 748 The Old Rectory, Church Lane, Horsted Keynes 40 units
- Site 780 Land at Jeffery's Farm, Sugar Lane, Horsted Keynes 80 units
- Site 781 Land to the south of Robyns Barn, Birchgrove Road, Horsted Keynes 45 units
- Site 807 Land South of The Old Police House, Birchgrove Road, Horsted Keynes 40 units
- Site 893 Land west of Church Lane, Horsted Keynes 38 units
- Site 945 Lucas Farm, Birch Grove Road, Horsted Keynes – Revised Access October 2018 30 units
- Site 67 Castle Field, Cinder Hill Lane capacity unknown
- Site 837 Land at Little Oddynes Farm, Waterbury Hill capacity unknown
- Site 663 Field 1, Ludwell Grange, Keysford Lane capacity unknown
- Site 664 Field 2, Ludwell Grange, Keysford Lane capacity unknown

Also in October 2018 the High Weald AONB Unit provided Mid Sussex District Council with a report titled 'High Weald AONB Advice on Mid Sussex SHELAA Sites' to inform the District Council's evidence gathering for the Site Allocations Document. This report covered a wider area but used the same methodology as the Horsted Keynes report and included the same sites and site assessments in Horsted Keynes with the exception of sites 67, 837, 663 and 664 which Mid Sussex District Council had excluded from their site assessment process.

In May 2019 the High Weald AONB Unit provided Mid Sussex District Council with an Addendum for the following amended sites:

- Ashhurst Wood - parcel of site 207
- Horsted Keynes – sites 69 and 971 (parcels of site 780)

The amended Horsted Keynes sites were also provided to Horsted Keynes Parish Council for information.

#### Methodology for the Reports

The methodology for the reports is set out in their introductions. The advice from the High Weald AONB Unit takes the form of an assessment of each site against the five landscape components identified on the High Weald AONB Management Plan. These are:

- Geology, landform, water systems and climate (topography and watercourses)
- Settlement (historic settlement pattern and scale of development relative to settlement)
- Routeways (impact on adjacent historic routeways, ecology and archaeology)
- Woodland (on site and adjacent woodland and ancient woodland including downstream)
- Field and heath (field systems and meadows / heathland data).

The sites are also assessed against the Management Plan's objectives for Public Understanding and Enjoyment, including views (where known), enjoyment of public rights of way and public open space.

An overall conclusion is provided as follows:

- High impact on the AONB
- Moderate impact on the AONB or
- Low impact on the AONB.

This was a desktop assessment based on the AONB Unit's datasets (metadata included within the reports) and it was clearly stated that they would need to be supplemented by evidence on visual impact. It was also highlighted that this assessment only considered impact on the AONB and there will be other planning considerations which may affect the overall rating for sites in the final published SHELAA by Mid Sussex District Council or the site assessment work carried out by Horsted Keynes Parish Council.

#### Response to Concerns Raised by Dr. H. Griffiths

***It is unclear which of these assessments was a 'desktop assessment', and which have involved site visits. The landowners met the AONB Planning officer, together with the Parish Council planning consultant on site by coincidence earlier this year (June 2019).***

All the site assessments were carried out as desktop assessments as stated in the report methodology. The site meeting in June 2019 took place after the assessments were completed and was between the High Weald AONB Planning Advisor and the Planning Consultant acting for the Parish Council.

#### ***1. Recent AONB re-assessment of site #69 - May 2019***

The reduction in the site area at Jeffreys Farm was considered in the May 2019 Addendum and the reference to the medieval field and scale of development removed. However, the impact was still considered high because development would be out of character with the settlement pattern of Horsted Keynes.

The AONB assessments were based on the AONB datasets and information in the SHELAA assessments available on the District Council's website, they did not take into account any further information provided by developers for the SHELAA or to support planning applications. Potential mitigation is a matter for consideration by the District Council and the Parish Council who are the decision-makers on the allocation of sites.

#### ***2. Terminology used to describe site #69 is not objective.***

The description of site 69 is based on the High Weald AONB Unit's knowledge and expertise in how settlements in the High Weald developed, and particularly the characteristic dispersed development, including farmsteads, which occurs across the landscape compared to the denser, more consolidated development that characterises the later villages. This site is clearly part of a farmstead and is therefore different in character to the village to the east of Sugar Lane. Screening is not relevant to the assessment of historic settlement pattern, but is referred to in the section on Public Understanding and Enjoyment where it states "Very limited views into the site from routeways due to mature hedgerows and trees".

### ***3. Uncertainly over the age of the farmstead at Jeffreys Farm***

Given the intact medieval nature of some of the farmstead's other fields, it is likely that the farmstead itself was medieval whatever the age of the current farmhouse.

### ***4. Conclusion comments for site #69 show little knowledge or understanding of how Horsted Keynes has developed since the Second World War***

The AONB assessment relates to historic settlement pattern, which is protected by objective S2 of the High Weald AONB Management Plan. Twentieth century additions to the village are not relevant to this assessment. Nonetheless, the development on the east side of Sugar Lane is of a denser, more consolidated character compared to the dispersed development beyond Sugar Lane.

### ***5. The AONB assessment of site #69 does not appear to be comparable with other site assessments in the village.***

#### ***A. Comparing site #69 with site #893 in Church Lane***

Impact on a Conservation Area or listed buildings are not factors that are taken into account in the AONB assessment. These are examples of the other planning considerations that the District and Parish Council would need to take into account before deciding whether to allocate a site but it is not part of the methodology for the AONB assessments. As previously stated, the potential for mitigation is also not considered as part of these assessments as that is a matter for the determining Council.

It is accepted that the topography of site 893 is steep, and this is reflected in the section on Geology and Landform. Similarly the presence of the footpath and views from it are reflected in the Public Understanding and Enjoyment section for site 893.

The overall reasons why sites have been assessed as major are set out in the Conclusions – for site 68 that is “High impact on AONB as development would be out of character with the settlement pattern of Horsted Keynes” and for site 893 “High impact on the AONB due to damage to the settlement pattern of a Saxon village around the Church and a later medieval village around the intersecting routeways and commons to the south”. They will not be “directly comparable” to each other because each site has different characteristics.

#### ***B. Comparing site #69 with site # 184 St Stephens Field***

The removal of mature trees to access site 184 was not considered as part of the AONB assessment because this information was not available in the SHELAA. It is understood that it may now be a feature of pre-application discussions on the site but that was not the basis of the October 2018 assessment report.

The section on Public Understanding and Enjoyment for site 184 acknowledges that there will be some limited views from Hamsland. These are mostly limited by St Stephens Church which is located in front of the site.

Under the section on settlement it states that site 184 is immediately to the south of modern development in Hamsland and is reasonably well-related to the village depending on design. Unlike the situation at site 69, there is continuous development on both sides of Hamsland up to the site and the field is not legible as part of a separate farmstead. Whilst the field is medieval in origin, it is

no longer intact because the church development has already removed the northern part of it. As with all heritage assets, the degree of intactness affects its value.

Dr Griffiths has queried why a development of 22 houses on site 69 is considered to be out of character with the settlement pattern, yet a development of 30 houses on site 184 is not. The conclusion on site 69 is about the location of development on the western side of Sugar Lane where the settlement character is very different to that on the eastern side. It is not about the scale of the development.

### ***C. Comparing site #69 to site # 216 and #807 at Police House Field***

No information was available at the time of the AONB assessment suggesting that mature trees or hedgerows would need to be removed so this was not taken into account. In terms of settlement pattern, site 216 would continue the line of cottages along Birchgrove Road and the northern part of site 807 would continue development behind this. There is no road separating the sites from the rest of the village in the way that site 69 is separated and the fields are not legible as part of a farmstead in the same way as Jeffreys Farm. Therefore sites 216 with the northern field of 807 would be more sympathetic to the historic settlement pattern. However, they undoubtedly do have adverse impacts on the AONB, including on medieval field systems, which is why they score as moderate rather than low.

### ***6. The AONB assessment of sites seems to be a simple and basic qualitative process, rather than a quantitative process and as a result is open to wildly different interpretation by different assessors.***

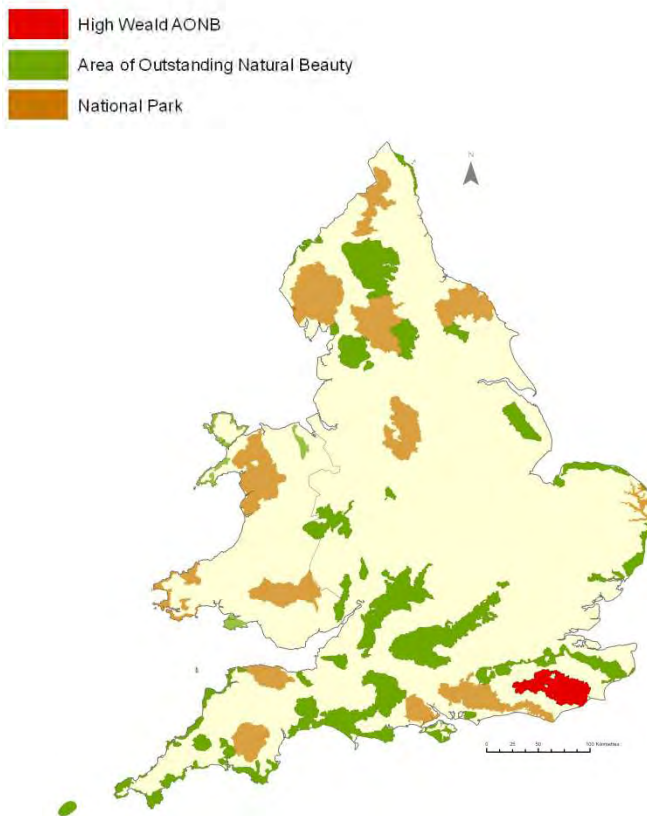
All site assessments are largely a matter of informed judgement rather than a numerical exercise that can be definitively quantified. We have made the AONB assessments as objective and transparent as possible by using a consistent template, linking the criteria directly to the High Weald AONB Management Plan objectives and including information about the sources of the data we have used in the report. The reports include the methodology used and the data we have relied on, and also make it clear that the AONB assessment is only part of the picture and that the District and Parish Councils will also need to take into account other factors in coming to decisions on site allocations. These will include impacts on Conservation Areas and listed buildings.

Importantly the reports also make clear that the assessment is desk based and that further evidence on visual impact will be required. Many of Dr Griffiths' comments relate to the relative screening of sites. Whilst the AONB datasets include woodland, historic hedgerows and contour lines the effect on views in and out of a site can really only be assessed on site. It should be noted though that screening by vegetation may only be temporary and inappropriate development in an AONB should not be justified on the basis that it can't currently be seen.

Where judgements are evaluative rather than just statements of fact it is open to anyone to submit their own different views as part of the public consultations on the planning documents that these assessments inform, in this case the Horsted Keynes Neighbourhood Plan and the Mid Sussex Site Allocations document. It is understood that the latter will be going out for public consultation in October 2019 for six weeks.

08.10.19.

## Appendix 1



### The High Weald: a cultural landscape

The High Weald is a special place. Its dispersed settlements, ancient routeways, abundant ancient woodland, extensive open heaths, and small, irregular shaped and productive fields are draped over rolling hills of clay and sandstone that together create a unique landscape distinct from other parts of Sussex, Surrey, and Kent and the rest of Britain.

The High Weald's distinctive countryside arises from a long history of human interaction and collaboration with the natural environment. Its main features were established by the fourteenth century and these features have either survived or been fortified by a number of subsequent historical events and social and technological changes.

The High Weald is essentially a cultural landscape and is considered as one of the best surviving coherent medieval landscapes in northern Europe. This is why the High Weald is considered worthy of protection – it has remained a unique, distinct, and

homogenous area for at least the last 700 years.

In recognition of the national importance of its landscape, the High Weald was designated an Area of Outstanding Natural Beauty (AONB) in 1983 and joined a family of 46 other AONBs and 13 National Parks across England, Wales and Northern Ireland.

### The High Weald Joint Advisory Committee (JAC)

The High Weald Joint Advisory Committee (JAC) is a partnership of 15 local authorities, the Department for Environment, Food and Rural Affairs, Natural England, the National Farmers Union, the Country Land and Business Association, Action in Rural Sussex, and the Forestry Commission.

### The High Weald AONB Unit

The JAC is supported by the High Weald AONB Unit, a small multi-disciplinary team. The AONB Unit aims to increase the understanding of the High Weald landscape's special qualities and provide information, advice and support to organizations and local people on action and policy to help conserve and manage the area (for more information visit [www.highweald.org](http://www.highweald.org)).

## Part B – Your Comments

You can find an explanation of the terms used in the guidance note. Please fill this part of the form out for each representation you make.

**Name or Organisation:**

The Griffiths Family

### 3a. Does your comment relate to:

Site  
Allocations  
DPD

☒

Sustainability  
Appraisal

☐

Habitats Regulations  
Assessment

☐

Community  
Involvement  
Plan

☐

Equalities  
Impact  
Assessment

☐

Draft Policies  
Maps

☐

### 3b. To which part does this representation relate?

Paragraph

Policy SA

11

Draft Policies Map

### 4. Do you consider the Site Allocations DPD is:

4a. In accordance with legal and procedural requirements; including the duty to cooperate.

Yes ☒

No ☐

4b. Sound

Yes ☐

No ☒

### 5. With regard to each test, do you consider the Plan to be sound or unsound:

	Sound	Unsound
(1) Positively prepared	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) Justified	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) Effective	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) Consistent with national policy	<input type="checkbox"/>	<input checked="" type="checkbox"/>



**6a.** If you wish to support the legal compliance or soundness of the Plan, please use this box to set out your comments. If you selected '**No**' to either part of question **4** please also complete question **6b**.

t is

**6b.** Please give details of why you consider the Site Allocations DPD is not legally compliant or is unsound. Please be as precise as possible.

Please attached covering letter

**7.** Please set out what change(s) you consider necessary to make the Site Allocations DPD legally compliant or sound, having regard to the reason you have identified at question 5 above where this relates to soundness.

You will need to say why this change will make the Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Please see covering letter

**Please note** your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested change, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage.

**After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.**

8. If your representation is seeking a change, do you consider it necessary to attend and give evidence at the hearing part of the examination? (tick below as appropriate)

☐

**No**, I do not wish to participate at the oral examination

☒

**Yes**, I wish to participate at the oral examination

9. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

In order to answer questions directly from the Inspector with regard to land at Jeffreys Farm as an alternative site allocation.

**Please note** the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

**10. Please notify me when:**

(i) The Plan has been submitted for Examination

☒

(ii) The publication of the recommendations from the Examination

☐

(iii) The Site Allocations DPD is adopted

☐

Signature:

Batcheller Monkhouse

Date:

28/09/2020

**Thank you for taking time to respond to this consultation**

## Site Allocations DPD: Regulation 19 Consultation Response

**Policy:** SA11

**ID:** 786

**Response Ref:** Reg19/786/1

**Respondent:** Mr S Crickett

**Organisation:** Strutt and Parker

**On Behalf Of:** Somerston Developments Projects

**Category:** Promoter

**Appear at Examination?** ✓



## **Site Allocations Development Plan Document Regulation 19 Submission Draft Consultation Form**

The District Council is seeking representations on the Submission Draft Site Allocations Development Plan Document, which supports the strategic framework for development in Mid Sussex until 2031.

The Site Allocations DPD, has four main aims, which are:

- i) to allocate sufficient housing sites to address the residual necessary to meet the identified housing requirement for the district up to 2031 in accordance with the Spatial Strategy set out in the District Plan;
- ii) to allocate sufficient employment land to meet the residual need and in line with policy requirements set out in District Plan Policy DP1: Sustainable Economic Development;
- iii) to allocate a site for a Science and Technology Park west of Burgess Hill in line with policy requirements set out in District Plan Policy DP1: Sustainable Economic Development, and
- iv) to set out additional Strategic Policies necessary to deliver sustainable development.

All comments submitted will be considered by a Planning Inspector, appointed by the Secretary of State, at a public examination to determine whether the plan is sound.

The Site Allocations DPD is available to view at:

[www.midsussex.gov.uk/planning-building/development-plan-documents/](http://www.midsussex.gov.uk/planning-building/development-plan-documents/)

A number of documents have been prepared to provide evidence for the Site Allocations DPD and these can be viewed on the Council's website at the above address.

Paper copies will also be at the Council offices (see address below) and your local library and available to view if the buildings are able to open during the consultation period.

**Please return to Mid Sussex District Council by midnight on 28<sup>th</sup> September 2020**

**How can I respond to this consultation?**

**Online:** A secure e-form is available online at:

[www.midsussex.gov.uk/planning-building/development-plan-documents/](http://www.midsussex.gov.uk/planning-building/development-plan-documents/)

The online form has been prepared following the guidelines and standard model form provided by the Planning Inspectorate. To enable the consultation responses to be processed efficiently, it would be helpful to submit a response using the online form, however, it is not necessary to do so. Consultation responses can also be submitted by:

**Post:** Mid Sussex District Council  
Planning Policy  
Oaklands Road  
Haywards Heath  
West Sussex  
RH16 1SS

**E-mail:** [LDFconsultation@midsussex.gov.uk](mailto:LDFconsultation@midsussex.gov.uk)

A guidance note accompanies this form and can be used to help fill this form in.

## Part A – Your Details (You only need to complete this once)

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### 1. Personal Details

Title	<input type="text" value="Mr"/>
First Name	<input type="text" value="Stuart"/>
Last Name	<input type="text" value="Crickett"/>
Job Title (where relevant)	<input type="text" value="Planning Director"/>
Organisation (where relevant)	<input type="text" value="Strutt &amp; Parker"/>
Respondent Ref. No. (if known)	<input type="text"/>
On behalf of (where relevant)	<input type="text" value="Somerston Development Projects"/>
Address Line 1	<input type="text" value="222 High Street"/>
Line 2	<input type="text" value="Guildford"/>
Line 3	<input type="text"/>
Line 4	<input type="text"/>
Post Code	<input type="text" value="GU1 3JD"/>
Telephone Number	<input type="text" value="07867 159510"/>
E-mail Address	<input type="text" value="Stuart.crickett@struttandparker.com"/>



Information will only be used by Mid Sussex District Council and its employees in accordance with the Data Protection Act 1998. Mid Sussex District Council will not supply information to any other organisation or individual except to the extent permitted by the Data Protection Act and which is required or permitted by law in carrying out any of its proper functions.

The information gathered from this form will only be used for the purposes described and any personal details given will not be used for any other purpose.

## Part B – Your Comments

You can find an explanation of the terms used in the guidance note. Please fill this part of the form out for each representation you make.

Name or Organisation:

### 3a. Does your comment relate to:

Site Allocations DPD	<input type="text" value="Y"/>	Sustainability Appraisal	<input type="text" value="N"/>	Habitats Regulations Assessment	<input type="text" value="N"/>
Community Involvement Plan	<input type="text" value="N"/>	Equalities Impact Assessment	<input type="text" value="Y"/>	Draft Policies Maps	<input type="text" value="N"/>

### 3b. To which part does this representation relate?

Paragraph	<input type="text"/>	Policy SA	<input type="text"/>	Draft Policies Map	<input type="text"/>
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**Refer to separate Written Representations Statement dated September 2020**

### 4. Do you consider the Site Allocations DPD is:

4a. In accordance with legal and procedural requirements; including the duty to cooperate. Yes  No

4b. Sound Yes  No

### 5. With regard to each test, do you consider the Plan to be sound or unsound:

	Sound	Unsound
(1) Positively prepared	<input type="text"/>	<input type="text" value="X"/>
(2) Justified	<input type="text"/>	<input type="text" value="X"/>
(3) Effective	<input type="text"/>	<input type="text" value="X"/>
(4) Consistent with national policy	<input type="text"/>	<input type="text" value="X"/>

**6a.** If you wish to support the legal compliance or soundness of the Plan, please use this box to set out your comments. If you selected 'No' to either part of question 4 please also complete question **6b**.

Refer to separate Written Representations Statement dated September 2020.

t is

**6b.** Please give details of why you consider the Site Allocations DPD is not legally compliant or is unsound. Please be as precise as possible.

Refer to separate Written Representations Statement dated September 2020.

**7.** Please set out what change(s) you consider necessary to make the Site Allocations DPD legally compliant or sound, having regard to the reason you have identified at question 5 above where this relates to soundness.

You will need to say why this change will make the Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Refer to separate Written Representations Statement dated September 2020.

In accordance with local plan policy DP30 the Plan needs to include appropriate identification and allocation of sufficient sites, in appropriate locations, to meet the District's housing for older people's needs.

Whilst not included with these representations, we would be happy to provide the appointed Plan Examining Inspector(s) with a full copy of the Carterwood Headline Planning Needs Assessment dated July 2019 referred in paragraph 5.1 of our written representations statement (and previously (most recently) submitted to the Council 1 August 2019).

**Please note** your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested change, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage.

**After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.**



8. If your representation is seeking a change, do you consider it necessary to attend and give evidence at the hearing part of the examination? (tick below as appropriate)

☐

**No**, I do not wish to participate at the oral examination

☒

**Yes**, I wish to participate at the oral examination

9. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

Participation sought to provide the Inspector and the council appropriate opportunity to consider and debate the matter of appropriate planning to meet housing for older people's needs in the District/the site allocations DPD.

**Please note** the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

**10. Please notify me when:**

(i) The Plan has been submitted for Examination

☒

(ii) The publication of the recommendations from the Examination

☒

(iii) The Site Allocations DPD is adopted

☒

Signature:

***Stuart Crickett***

Date:

28/09/2020

**Thank you for taking time to respond to this consultation**



# **Mid Sussex Site Allocations DPD**

## **Regulation 19 Consultation September 2020**

### **Written Representations**

On behalf of Somerston Development Projects

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### Document Control:

Primary author: Stuart Crickett

Initialed: SC

Review by: Stuart Crickett

Initialed: SC

Issue	Date	Status	Checked
1	25.09.20	Draft	SC
2	28.09.20	Final	SC

# 1. Executive Summary

- 1.1. These representations have been prepared on behalf of our client, Somerston Development Projects Ltd.
- 1.2. The proportion of older people within the general population is increasing at a national level, as well as within Mid Sussex District which has a higher than average proportion of residents over the age of 65. There is also an increasing move towards the provision of a wide range of forms of specialist housing for older people, including Extra Care and sheltered housing, alongside traditional care homes to ensure older people have access to the right type of housing to meet their needs.
- 1.3. The growing demand and need to provide specialist housing is reflected in national policy and guidance which clearly states: ‘...***the need to provide housing for older people is critical.***’ National guidance goes on to make clear that local plans should be based on a robust analysis of need and make provision for housing for older people where there is an identified need, including through specific targets and site allocations as appropriate.
- 1.4. The adopted Mid Sussex District Plan does not allocate any specific sites for housing for older people. However, Policy DP30 clearly states the allocation of sites will be considered and actioned through the (future) Site allocations Development Plan Document (DPD) if a shortfall in provision is identified.
- 1.5. In preparation of the Site Allocations Development Plan Document (DPD) the Council appears to have continued with their approach of not publishing any up-to-date research into the level of need for different forms of specialist housing; or taken account of its own evidence in the Housing and Economic Development Needs Assessment addendum 2016. Moreover, only one proposed site allocation policy in the draft DPD (SA30) refers to the potential for a care development. Which itself is of an unspecified form and scale.
- 1.6. We have previously submitted to Officers an assessment of the level of demand for Extra Care accommodation undertaken by Carterwood (July 2019), identifying a considerable shortfall of at least 384 units of private Extra Care accommodation within the District. This is expected to rise to at least 607 units by 2030. This clearly represents a significant and worsening shortfall situation. We are also aware the Council’s significant shortcomings regarding approach to planned and actual delivery of housing for older people has been demonstrated in the Former Hazledene Nursery appeal decision (ref. 3241644) issued September 11 2020. We therefore once again strongly recommend and encourage the Council to look to redress this position through proactively planning for delivery through the Site Allocations DPD to meet the District’s demonstrable need.

- 1.7. We believe the land at Woodpeckers, Copthorne is sustainably located, with good bus links to Crawley and East Grinstead, and is within walking distance of a number of facilities. Whilst outside the defined settlement area of Copthorne, the site has previously been developed and is in an area containing residential and other development. The site has the potential to deliver a high quality Extra Care development. This will make a meaningful and valuable contribution to the site's immediate local area and the District's wider supply shortfalls.
- 1.8. We recommend the Council allocate this site to provide housing for older people in the Site Allocations DPD toward beginning to readdress the identified shortfall.



## 2. Planning for Housing for Older People

### National Planning Policy and Guidance

- 2.1. Paragraph 61 of the National Planning Policy Framework (NPPF) 2019 states:

*'the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own home.'*

- 2.2. The June 2019 version of the Planning Practice Guidance (PPG) was updated to include a new section on housing for older and disabled people. This states:

***'The need to provide housing for older people is critical. People are living longer lives and the proportion of older people in the population is increasing. In mid-2016 there were 1.6 million people aged 85 and over; by mid-2041 this is projected to double to 3.2 million. Offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems. Therefore, an understanding of how the ageing population affects housing needs is something to be considered from the early stages of plan-making through to decision-taking.'***

(emphasis added)

- 2.3. The PPG goes on to set out that a diverse range of needs exists, and so will the type of housing and level of care and support people require. For plan making purposes authorities *'...will need to determine the needs of people who will be approaching or reaching retirement over the plan period, as well as the existing population of older people.'*
- 2.4. The PPG sets out strategic planners and decision makers should consider multiple sources of information including Census data, as well as tools such as the Housing LIN SHOP toolkit to assist in breaking down the tenure and type of housing which may be needed. Different types of specialist housing including age-restricted market housing, sheltered housing, Extra Care, and residential care and nursing homes.
- 2.5. In order to ensure delivery of specialist housing to meet identified needs the PPG states:

*'Plan-making authorities should set clear policies to address the housing needs of groups with particular needs such as older and disabled people. These policies can set out how the plan-making authority will consider proposals for the different types of housing that these groups are likely to require. They could also provide indicative figures or a range for the number of units of specialist housing for older people needed across the plan area throughout the plan period.'*

2.6. It goes on to clearly state:

***'Plans need to provide for specialist housing for older people where a need exists. Innovative and diverse housing models will need to be considered where appropriate.'***

(Emphasis added)

2.7. The critical importance attached to the provision of housing for older people by the Government is clear. It is also clear that plan-making should include a robust assessment of the need for specific types of specialist housing, with specific policy requirements and site allocations as appropriate.

### **Extra Care**

2.8. Extra Care is a relatively new form of specialist housing in the UK, but is much more widespread in other advanced developed economies such as the USA, Australia, and New Zealand.

2.9. It is primarily a form of housing for older people where residents live in a self-contained dwelling which is designed to be accessible and adaptable to people with varied care needs, and where occupants will have a package of care which will vary according to their needs. On larger developments residents will often have access to shared care and community facilities.

2.10. Extra Care can be seen as providing a stepping stone between general needs or age-restricted housing at one end, and residential and nursing care at the other. The provision of accommodation and care services which are adaptable to changing care needs allows residents to live independently for longer whilst still receiving the care they need. In other words, it allows residents to 'age in place' by increasing the level of support they receive as their care needs increase.

2.11. The independence and adaptability this type of accommodation provides has the potential to provide significant health and wellbeing benefits to residents. A study for the International Longevity Centre of 4,000 residents found lower than expected levels of

hospitalisation, as well as relative health, financial, and quality of life improvements.<sup>1</sup> A further example in the House of Lords Report on Intergenerational Fairness<sup>2</sup> noted the benefits of Extra Care schemes providing a high level of care while enabling residents to remain part of a community.

- 2.12. It is vitally important the Council actively supports the delivery of Extra Care accommodation to ensure choice for older residents and a sufficient supply of fit-for-purpose housing for older people more widely, in accordance with the social objective of sustainable development.
- 2.13. There can be ambiguity over the planning use class different forms of housing for older should fall under, as alluded to in the PPG.<sup>3</sup> Whilst Extra Care developments are designed to encourage a degree of independence of residents, they do so within a structured care environment. Whilst many residents may only need limited care provision initially, they will often need to access more extensive care and support services over time. As such Extra Care developments are normally considered to fall within use class C2. Details such as minimum care provision, and age requirements can be considered and controlled at the planning application stage.

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<sup>1</sup> [ILC-UK \(2011\) Establishing the extra in Extra Care](#)

<sup>2</sup> [House of Lords Select Committee on Intergeneration Fairness \(2019\)](#)

<sup>3</sup> Paragraph: 014 Reference ID: 63-014-20190626

### 3. Adopted Planning Policy Context

- 3.1. The extant Mid-Sussex District Council District Plan was adopted in 2018. It contains strategic policies for the District for the plan period 2014-2031. The District Plan identifies a number of strategic needs. This includes employment, with the allocations of at least 25ha of employment land, as well as the identification of a broad location for a new science and technology park.
- 3.2. The plan also identifies a significant housing need, with a requirement of 14,892 dwellings, as well as a further 1,498 dwellings to account for unmet need arising from neighbouring authorities, primarily from Crawley.
- 3.3. Alongside housing and employment needs, the District Plan identifies a range of policies relating to help deliver sustainable development and to promote good design.
- 3.4. Chapter 2 of the District Plan sets out the Council's Vision and Objectives, identifying meeting the changing needs of residents as one of the main challenges for the District, with 2011 Census data showing an above average proportion of older people with 18.1% of the district population aged 65 and over, and projections stating this is set to increase to 21.2% by 2021. The District Plan also states the proportion of people over 85 set to increase from 2.8% to 3.3% of the population in the District by 2021.
- 3.5. The published populations projections from the ONS confirm the aging trend at a national level with the number of people aged over 85 projected to nearly increase from 2.4% of the UK population in 2018 to over 4% in 2043 .<sup>4</sup>
- 3.6. Policy DP30 sets out that development proposals should include a range of housing to meet the future needs of different groups in the community including older people, and people wishing to build their own home. This policy sets out that:

*If a shortfall is identified in the supply of specialist accommodation and care homes falling within Use Class C2 to meet demand in the District, the Council will consider allocating sites for such use through a Site Allocations Document, produced by the District Council.*
- 3.7. The policies for the strategic allocations also set out that these sites should include provision of a range of housing including for older people, Policy DP28 states 20% of dwellings on sites of 5 or more units should be designed to meet Building Regulations Part M4(2) standards for accessibility.

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<sup>4</sup> ONS (2019) National population projections: 2018-based.

- 3.8. The Council's approach to date has not been to make specific provision for housing for older people but instead to assume that this need will be met through the general development management process.
- 3.9. Four strategic allocations are included in the District Plan. The outline permission for the strategic allocation East of Kings Way at Burgess Hill did not include any specific provision for housing for older people (reference 12/01532/OUT). The outline permission for the strategic allocation at Pease Pottage (DM/15/4711) included provision for a 48 bed 'care facility,' with a subsequent reserved matters approval for a 24-bed hospice facility (DM/17/2534). The March 2020 approved Outline planning permission on the strategic site north of Clayton Mills, Hassocks (ref. DM/18/4979) does not include any specific provision for housing for older people. Approval for the development of the Burgess Hill Northern Arc includes provision of 60 Extra Care units (application reference DM/18/5114).
- 3.10. As can be seen from the very limited provision of housing for older people being delivered through key strategic sites, and having regard to the objective evidence presented in the Carterwood Report - which we have previously formally provided to Officers (most recently in our email dated 1<sup>st</sup> August 2019) there remains a demonstrable need and undersupply of C2 Extra Care accommodation throughout the District – both immediate and long term. Indeed, throughout a 1.5-year period across 2018 – 2019 provision of Extra Care accommodation in the District amounted to a zero actual increase despite increased need over the same period due to the growth in the over 75s population.
- 3.11. Furthermore, within the recently issued allowed appeal decision on the former Hazeldene Nursery site (ref 3241644) (full copy attached at **Appendix 1**) the significant failings of the Council to address the requirements of Policies H7 and Policy DP30, specific to provision of housing for older people, have been very clearly identified.
- 3.12. It is therefore apparent the Council's current *laissez faire* approach has been ineffective in meeting the need for specialist housing for older people to date. This is a particularly concerning position within the context of the District's ageing population and evidences Policy H7 of the adopted Local Plan is failing to encourage and secure the delivery of sufficient proposals and development of elderly accommodation. Accordingly, Policy DP30 of the District Plan must be activated and the importance of allocating sites through the Site Allocations DPD is self-evident to redress this imbalance accordingly.



## 4. Draft Site Allocations Development Plan Document

- 4.1. District Plan Policy DP30 sets out that the Council will consider allocating sites for C2 development if a shortfall in supply is identified.
- 4.2. The Council has published a Regulation 19 Draft of its Site Allocations DPD. The Consultation document is accompanied by a Sustainability Appraisal and HRA as well as a number of evidence documents including site selection papers setting out how proposed allocations for housing and economic development have been chosen.
- 4.3. Within the Consultation document itself there is only a single reference to housing for older people, with site allocation SA20 at Imberhorne Lane, East Grinstead proposed to include a C2 Care Community (if there is an evidenced need). It should be noted, that as part of a larger site allocation the delivery of this care community will be dependent on a number of unrelated factors. Furthermore, the form and quantum of the care community is entirely unspecified within the wording of the proposed allocation policy. As such, there is unquestionably a significant degree of uncertainty over the site's ability to deliver this element.
- 4.4. The evidence base supporting the Reg.19 SA DPD only includes limited evidence on the housing needs of older people. This is primarily in the Housing and Economic Development Needs Addendum (HEDNA) 2016 which identified a shortfall in Extra Care provision of 120 units at 2014 within Mid Sussex, and a need of 345 units by 2031. Alongside this the HEDNA Addendum identifies an additional need for 1,276 units of sheltered housing, 340 units of enhanced sheltered housing, and 762 units of residential and nursing care accommodation by 2031. The report states that without additional provision there will be a significant shortfall by the end of the plan period.
- 4.5. Paragraphs 3.15 - 3.16 of the Reg 18 Preferred Option and Reg. 19 Sustainability Appraisals make reference to the fact the population in the District is aging, although it does not appear any consideration is given to any appropriate policy response. The Reg. 19 Equalities Impact Assessment stated the introduction of specific policies in relation to housing for older people had been considered but rejected. The Reg. 19 Equalities Impact Assessment (September 2019) appears to offer no further or new consideration in this regard. It is unclear where in the evidence base this consideration is set out, if set out at all?
- 4.6. We would also take this opportunity to once again restate our concerns with the Council's current assessment contained within the SHLAA/Site Allocations DPD evidence base. As advised, the site was submitted for consideration as an C2 Extra Care specific development opportunity. Nonetheless, the SHLAA assessment of the site has been

undertaken on the blanket basis that it is a C3 market housing site – see **Appendix 3**. This should be revisited and the site and its merits reassessed appropriately.

- 4.7. It appears the Council has proceeded to undertake no further assessment of the need for specialist housing since the HEDNA Addendum in 2016 and failing to address the identified need for housing for older people through the emerging Site Allocations DPD. We strongly encourage the Council revisit this approach and allocate sites to ensure delivery of specialist housing for older people to meet the District's clearly established and growing needs.

## 5. The Need for Extra Care

- 5.1. Carterwood have produced a Headline Planning Needs Assessment dated July 2019 which assesses the level of need for Extra Care accommodation across the District (Mid-Sussex DC boundary) and within the local and market catchment areas of Copthorne (c. 3-mile radius and 10-mile radius respectively). This has previously been provided to Officers, and we would be happy to share it again.
- 5.2. Carterwood are a leading RICS accredited consultancy providing advice in relation to the care sector, and are experienced working with private and voluntary sector care providers, as well as the public sector.
- 5.3. There is no standard method for assessing the need for Extra Care in national planning policy or guidance, and the assessment uses the Housing Lin SHOP toolkit, which is mentioned in PPG and has effectively become the industry standard. This identifies a need for 40 units of extra care and enhanced sheltered accommodation per 1,000 head of population aged 75 years and above.
- 5.4. Taking into account planned supply, the Carterwood report, which is significantly more up to date evidence than that underpinning the District Plan and also the Site Allocations DPD (evidence dated 2014) identifies an indicative shortfall of 384-492 private Extra Care units within Mid-Sussex District (as of 2020), including planned supply.<sup>5</sup> Within the market catchment of the site itself (10-miles) the indicative shortfall is between 805-919 units, and within a localised 3-mile catchment the indicative shortfall is 174 units.
- 5.5. Carterwood's evidence demonstrates by 2030 the shortfall in private Extra Care units is expected to rise to at least 607 units in the District and 1,353 units within the 10-mile market catchment of the site. It is worth noting these projections assume existing demographic trends for Extra Care continue and as such are likely to underestimate the potential under-supply of Extra Care accommodation.
- 5.6. There is clearly **a very significant unmet need for Extra Care Accommodation** within the District. We strongly recommend the Council need to take account and positively respond to the evidence already publically available to them, or alternatively commission its own updated evidence on this specific matter and not to proceed to the Regulation 22 stage until the evident failings of the current SA DPD are addressed: given the importance and magnitude of the District's current under provision. Given the scale of need we also recommend the Council needs to allocate specific sites for Extra Care and other forms

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<sup>5</sup> N.B. The planned supply in the Caterwood Report included the 84 units at the Former Hazeldens Nursery, which have recently been granted permission at appeal.

of housing for older people as appropriate to ensure a sufficient supply over the remainder of the plan period. In accordance with Policy DP30 of the Local Plan.

## 6. Woodpeckers, Snow Hill, Copthorne

### The Site

- 6.1. The land at Snow Hill, Copthorne (Woodpeckers) comprises an area of land approximately 2.4ha containing a mixture of undeveloped and previously developed land. Historically the site included two cottages (Woodpeckers and Courtland Cottage), as well as a number of other buildings some of which are in Class B1 use. The site is within an area containing a mix of generally lower density residential and commercial development to the east of the main settlement area of Copthorne. It is accessed off the A264 Snow Hill.
- 6.2. The site has previously gained permission for the development of a 59-bedroom hotel (application 09/02368/OUT1), together with replacement dwellings. Development works commenced and this permission remains extant, although development works have been paused.
- 6.3. The site is sustainably located with bus stops within a 5-minute walk of the site providing a regular service with 2-3 buses an hour to Crawley and East Grinstead. There are a number of facilities close to the site including the Dukes Head public house and restaurant which is less than 100m away, and a convenience store and petrol station within 400m of the site. There are also a number of employment and leisure facilities close to the site including various business parks, a golf course, and a garden centre.
- 6.4. The site has previously been submitted to the Mid Sussex SHELAA in 2018 where it was considered as being potentially suitable for housing. A pre-application enquiry was most recently submitted in 2018.

### The Proposed Development

- 6.5. The proposals for the site at this stage are for an Extra Care development comprising 118 apartments and 4 cottages all falling within Use Class C2. The development is proposed to include:
  - A community hub which could include a range of everyday facilities including treatment rooms and a hairdresser.
  - Safe access from Snow Hill with adequate parking on site for residents and staff.
  - A well-designed development with a village feel providing a safe and supportive environment which encourages independence and activity and is designed around pedestrian movement.



- A comprehensive and stimulating soft-landscaping scheme which is multi-functional and promotes biodiversity.
- Thoughtfully designed Extra Care homes which are future-proofed and designed to use resources efficiently.

6.6. This previously developed site provides a compelling development opportunity which would assist the Council in beginning to address the significant level of unmet need for Extra Care housing within the District. Submitted alongside these representations is a copy of the Vision Document submitted to Officers in May this year (2019) providing further details.

6.7. The site is available for development now, is suitably located, and development is achievable. The site should be considered deliverable and be allocated to provide housing for older people in the Site Allocations DPD.

## 7. Conclusion

- 7.1. Recent changes to national policy and guidance reflect the significant scale of needs for housing for older people across the country, and for Council's this represent a step-change in the approach which needs to be adopted in order to ensure sufficient delivery to meet this need in full.
- 7.2. The adopted District Plan does not make specific provision for housing for older people, although Policy DP30 provides clear guidance that sites providing housing for older people should be allocated where a shortfall is identified.
- 7.3. The Council's evidence base supporting the Reg.19 Site Allocations DPD relies on outdated and minimal evidence regarding the level of need to plan for the provision of housing for older people. A need which is noted by national policy to be of critical national importance and even within the Council's current published evidence base to being unserved within the District itself. The Regulation 19 Site Allocations DPD makes no meaningful provision for housing for older people.
- 7.4. The evidence produced by Carterwood, focusing specifically on the need for Extra Care accommodation identifies a significant shortfall in the provision of private Extra Care accommodation, with a current shortfall of at least 384 units as of 2020, which is set to rise to 607 units by 2030 given demographic profile and growth rates in the area. Clearly this represents a significant shortfall against the identified need.
- 7.5. Furthermore, the level of unmet need has clearly been identified in the District through the consideration and conclusions reached by the Inspector in the allowed appeal for the redevelopment of the former Hazeldene Nursery site.
- 7.6. Accordingly, we strongly encourage the Council to correct the SA DPDs current shortcomings concerning provision of accommodation for the District's elderly community. The SA DPD should include appropriate site allocations and specifically sites that will specifically meet its elderly housing needs. In accordance with Policy DP30 of the Local Plan.
- 7.7. The site at Woodpeckers, Snow Hill, Copthorne represents a sustainable location for a new Extra Care development of much needed new homes. The site is available now and development is achievable. The site is deliverable and we recommend the Council allocate it to provide housing for older people in the Site Allocations DPD to help address the identified unmet need for housing for older people.

## Appendices

## Appendix 1

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## Appeal Decision

Inquiry Held on 20-22, 24, 27, 28, 30, 31 July and 6 August 2020

Site visits made on 16 July, 7 and 16 August 2020

by Christina Downes BSc DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 September 2020

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Appeal Ref: APP/D3830/W/19/3241644

Site of the former Hazeldens Nursery, London Road, Albourne, West Sussex BN6 9BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by RV Developments Ltd and Notcutts Ltd against the decision of Mid Sussex District Council.
  - The application Ref DM/19/1001, dated 8 March 2019, was refused by notice dated 26 July 2019.
  - The development proposed is an extra care development of up to 84 units (comprising of apartments and cottages) all within Use Class C2, associated communal facilities. 2 workshops, provision of vehicular and cycle parking together with all necessary internal roads and footpaths, provision of open space and associated landscape works, and ancillary works and structures. Works to include the demolition of the existing bungalow on the site.
- 

### DECISION

1. The appeal is allowed and outline planning permission is granted for an extra care development of up to 84 units (comprising of apartments and cottages) all within Use Class C2, associated communal facilities. 2 workshops, provision of vehicular and cycle parking together with all necessary internal roads and footpaths, provision of open space and associated landscape works, and ancillary works and structures. Works to include the demolition of the existing bungalow on the site on the site of the former Hazeldens Nursery, London Road, Albourne, in accordance with the terms of the application, Ref DM/19/1001, dated 8 March 2019, subject to the conditions in Annex C to this decision.

### PROCEDURAL MATTERS

2. A costs application was made by RV Developments Ltd and Notcutts Ltd against Mid Sussex District Council. This is the subject of a separate Decision.
3. The application was made in outline form with access as the only matter to be considered at this stage. It was accompanied by a Parameter Plan (drawing no: RET1150215 PP-01 rev G) along with a detailed plan of the access and traffic calming measures proposed along London Road (drawing no: 1701-56 SK08 rev B). Following discussion at the inquiry it was agreed that the Sketch Layout (drawing no: RET1150215 SKL-04 rev J) should also be treated as an application drawing.



4. At the request of the Appellants, I undertook an accompanied visit to Charters Village, one of **Retirement Villages'** extra care developments in East Grinstead, West Sussex.
5. The proposal is supported by a Planning Obligation by Agreement (S106 Agreement) and a Planning Obligation by Unilateral Undertaking (UU). Just before the close of the inquiry the Council and the Appellants were involved in further discussions about the definition of Personal Care in the UU, amongst other things. As a result, changes were made whereby the Council reviewed its position and agreed that the proposed development would fall with Use Class Use C2 rather than Class C3 in the *Town and Country Planning (Use Classes) Order 1987 (as amended)*. As a consequence, there was no longer a policy requirement for affordable housing and the reason for refusal relating to that matter was no longer pursued. In order to allow the completion and engrossment of the legal documents, I agreed to a short extension of time following the close of the inquiry.
6. The planning application was made with reference to Use Class C2 in the description of the proposal. I was told that the Council would not validate it unless this reference was removed, which the Appellants agreed to do although by accounts not altogether willingly. In any event, as indicated in the preceding paragraph there is now no dispute that the proposal would fall within Class C2 and so it remains in the description as originally submitted.

## REASONS

### PLANNING POLICY CONTEXT AND THE APPROACH TO DECISION MAKING

7. For the purposes of this appeal the relevant part of the development plan comprises the *Mid Sussex District Plan 2014-2031* adopted in March 2018 (the MSDP) and the *Albourne Parish Council Neighbourhood Plan* made in September 2016 (the ANP). I do not consider that there are any pertinent saved policies or allocations in the *Mid Sussex Local Plan* (2004) or the *Small Scale Housing Allocations Development Plan Document* (2008) in this case. I return to this briefly below. The *West Sussex Joint Minerals Local Plan* (2018) is agreed by all parties not to be relevant.
8. It is the Appellants' **case that the presumption in favour of sustainable** development applies as set out in paragraph 11 of the *National Planning Policy Framework* (the Framework). This is on two counts each of which is considered below. The first is that the development plan itself is not up-to-date. If that is the case, then the Appellants agree that paragraph 11c) could not apply. The second is that the basket of most important policies for determining the application are out-of-date because they are inconsistent with Framework policies. It is agreed between the main parties that the Council is able to demonstrate a five-year supply of deliverable sites to meet its housing requirement.

Whether the development plan as a whole is up-to-date

9. The Council has chosen to adopt a two-stage approach whereby the MSDP only includes strategic allocations, with the smaller housing sites to be identified through a *Site Allocations Development Plan Document* (SA DPD) and neighbourhood plans. Policy DP4 in the MSDP anticipates the former document

- being adopted in 2020, but the 2019 Local Development Scheme envisages this to be the summer of 2021. I was told at the inquiry that the Regulation 19 consultation had only just commenced and so there appears to have been further slippage and a more realistic assessment would be adoption later next year or even early in 2022.
10. The 2004 *Planning & Compulsory Purchase Act (as amended)* requires local planning authorities to identify strategic priorities for the development and use of land in their area. Policies in the development plan document must address these priorities. This is reflected in paragraph 17 of the Framework and similarly in the 2012 version of the Framework. The MSDP sets strategic priorities (termed objectives) in Chapter 2 and the policies to address them in Chapter 4. These include policy DP4. As mentioned above, policy DP4 specifically refers to the subsequent preparation of the SA DPD. If this had been required to have been produced at the same time it is difficult to see how the Examining Inspector could have been found it legally compliant in terms of consistency with national policy or legislation. However, it was found to be sound and as far as I am aware, no legal challenge was made to its adoption.
  11. It is the case that the Examining Inspector indicated an expectation that the SA DPD would follow "*soon after this plan*" and recorded that the Council had committed to bringing it forward "*at an early date*". However, there was no clear indication as to the anticipated timeframe, apart from what is indicated in policy DP4. There has clearly been slippage but, the complaint that the MSDP does not adequately address small sites coming forward is as true now as it was when the plan was found sound. The Framework does not require a plan to necessarily allocate all of the housing land supply for the whole plan period. That is why it distinguishes between deliverable and developable sites during different stages of the lifetime of the plan.
  12. In any event, the MSDP includes other means for bringing small sites forwards including neighbourhood plans. Mid Sussex District has a good coverage of such plans, albeit that most were made under the auspices of the 2004 Local Plan. Nevertheless, **there is insufficient evidence to support the Appellants' assertion that this therefore means that the contribution of small sites from this source is "nominal"** on a district-wide basis. Whilst the Albourne Neighbourhood Plan includes few allocations, it is one of around 20 such plans. Policy DP6 is permissive of settlement expansion and allows small sites of less than 10 dwellings to come forwards under certain conditions. The Examining Inspector considered that it provided the MSDP with extra robustness and flexibility in maintaining a rolling 5-year supply of housing land.
  13. For all of the above reasons I do not consider that the development plan is out-of-date at the present time.

The most important policies for determining this application

14. The Council and the Appellants consider that the following policies, which are included in the reasons for refusal, should be considered most important:

- MSDP: DP6, DP12, DP15, DP21, DP31, DP34, DP35
- ANP: ALC1, ALH1

All of these seem to me to fall within this category, save for policy DP31

relating to affordable housing. This rested on the dispute about whether the proposal fell within Use Class C2 or Use Class C3 and this in turn was resolved **by the tightening of the definition of "Personal Care" in the UU**. This document was not finalised at the time that the planning application was being considered by the Council and there was thus scope for change, as indeed happened during the inquiry. There was no dispute that the policy does not apply to Use Class C2 housing proposals and so, whilst it is relevant, I do not consider policy DP31 is of key importance to the determination of the application.

15. There are a number of disputed policies, which are as follows:

- Policy DP4 relates to housing delivery and sets out the **District's** housing requirement and how it will be addressed. It also commits to the preparation of a SA DPD as referred to above. It is clearly relevant to the consideration of a housing proposal, but it is not a development management policy that plays a significant role in determining planning applications. It is thus not a most important policy in this case.
- Policy DP20 is included in the reasons for refusal and relates to securing infrastructure and mitigation through planning obligations or the Community Infrastructure Levy. This will be addressed through the legal Deeds and, whilst clearly relevant is not to my mind of most importance.
- Policy DP25 concerns community facilities and local services and the supporting text makes clear that specialist accommodation and care homes are included. This supports the type of development being proposed and is therefore a most important policy in this case.
- Policy DP30 relates to housing mix and the need to meet the current needs of different groups in the community, including older people. It is a most important policy to the consideration of this proposal.
- Policy ALH2 in the ANP is an allocation for 2 houses in Albourne. This is not of particular relevance to the proposal and is not a most important policy.

16. The Appellants consider the saved policies in the 2004 Local Plan and policies SSH/7 to SSH/18 in the 2008 Small Scale Housing Allocations Development Plan Document to be most important. These relate mainly to site specific matters and allocations. Both are based on an out-of-date housing requirement established in the West Sussex Structure Plan. They also do not address the need for elderly persons accommodation. However, their relevance to the current proposal is tenuous and they are not of pertinence to this application.

17. Drawing together the above points, the most important policies to the determination of this application are:

- MSDP: DP6, DP12, DP15, DP21, DP25, DP30, DP34, DP35
- ANP: ALC1, ALH1

Whether the most important policies are out-of-date

18. Whether the aforementioned policies are considered out-of-date in terms of paragraph 11d) of the Framework will depend on their degree of consistency with its policies. This was not a matter that the Council specifically addressed in its evidence, **but I agree with the Appellants' assessment that** policies DP21,

DP34 and DP35 are consistent and can be considered up-to-date.

19. **The Appellants' complaint regarding** policies DP6, DP15, DP25 and DP30 is that they fail to address the way that extra care housing will be provided to meet identified needs as required by the Framework and Planning Practice Guidance.
20. **The assessment of need, including for older person's housing, was undertaken** through the Housing and Economic Needs Assessment (HEDNA) and its Addendum and formed part of the evidence base for the MSDP. Whilst this has been strongly criticised by the Appellants on many counts it nevertheless does provide an assessment of the type and tenure of housing needed for older people. Furthermore, it is clear that the Examining Inspector considered the **matter of older person's housing**. Policy DP30 was found sound, subject to modifications that were subsequently incorporated.
21. The matter of need is considered in detail later. However, policies DP25 and DP30 flow from the assessment of need in the HEDNA Addendum. Policy DP30 indicates that current and future needs of different community groups, including older people, will be met and that if there is found to be a shortfall in Class C2 housing, allocations through the SA DPD will be considered. There is an allocated site (SA 20) within that draft document for a care community. The Appellants are critical of this for various reasons, but the plan is still at an early stage and these will be considered at the examination in due course.
22. Policy DP6 supports settlement growth, including to meet identified community needs. Bearing in mind the terms of policy DP25, this could include extra care housing. Policy DP15 addresses housing in the countryside and refers to policy DP6 as a criterion. The Planning Practice Guidance is not prescriptive as to how the housing needs of older people are addressed in planning policies. Overall, the aforementioned policies are, in my opinion, consistent with the guidance and Framework policy, including paragraph 61.
23. Policy DP12 indicates that the countryside will be protected in recognition of its intrinsic character and beauty. It also refers to various landscape documents and evidence to be used in the assessment of the impact of development proposals. Whilst the wording could be improved, it does not seem to me to imply uncritical protection but rather a more nuanced approach that takes account of the effect on the quality and character of the landscape in question. To my mind this is consistent with the policy in both the 2012 Framework, under which the MSDP was considered, and the current version (2019). In that respect I do not agree with the Inspector in the Bolney appeal that the approach to protection has materially changed between the two documents.
24. Policy ALC1 seeks to maintain and where possible enhance the quality of the rural and landscape character of the Parish. Overall, its terms seem to me to be similar to policy DP12.
25. Policy ALH1 generally supports development on land immediately adjoining the built-up boundary, whereas policy DP6 permits such development if it is contiguous with an existing built-up area. Policy ALH1 also has the added requirement that other than a brownfield site the development must be infill and surrounded by existing development. These provisions are more restrictive than policy DP6 in the MSDP, which as the more recent policy in the development plan therefore takes precedence.

Whether the basket of most important policies is out-of-date

26. From the above, I have found that other than policy ALH1 in the ANP, the most important policies are not out-of-date and in the circumstances I do not consider that the basket overall is out-of-date either.

#### Conclusions

27. Paragraph 11 of the Framework sets out the approach to decision making within the context of the presumption in favour of sustainable development. In this case there are development plan policies relevant to the determination of this application and overall, I conclude that they are not out-of-date. Paragraph 11d)ii) is therefore not engaged.
28. In such circumstances it will be necessary to consider whether the proposal would accord with an up-to-date development plan and whether paragraph 11c) is engaged. This is a matter to which I will return in my final conclusions.

#### THE EFFECT OF THE PROPOSAL ON THE CHARACTER AND APPEARANCE OF THE AREA AND THE SURROUNDING LANDSCAPE, INCLUDING THE NEARBY SOUTH DOWNS NATIONAL PARK

29. The appeal site comprises about 4.4 hectares of land on the western side of London Road. Its previous longstanding use as a nursery ceased several years ago. The large glasshouses that once stood on the northern area have been demolished and all that now exists are remnant hardstandings. A small bungalow occupies the north-eastern part of the site. This building would be demolished, and the site would be redeveloped with 84 extra care dwellings within a mix of apartment buildings and bungalows. The site is outside the defined built-up boundary of Albourne and is therefore in the countryside for policy purposes.

#### Effect on the landscape

30. The appeal site is within the Hurstpierpoint Scarp Footslopes Landscape Character Area (the LCA) in the *Mid Sussex Landscape Character Assessment* (2005). Key characteristics include undulating sandstone ridges and clay vales; an agricultural and pastoral rural landscape; a mosaic of small and large fields; woodlands, shaws and hedgerows with woodland trees; expanded ridge line villages; traditional rural buildings and dispersed farmsteads; and a criss-cross of busy roads. In addition, views are dominated by the steep downward scarp of the South Downs.
31. The site boundaries are bordered by boundary tree and hedge lines, but in places these are patchy and their quality is diminished in places by the incursion of non-indigenous conifers. There is a small ridge running east to west across the northern part, which includes the roadways, hardstandings and bungalow along with conifer tree lines and groups. There is a narrow view of the South Downs framed by vegetation. The southern section is on the shallow valley side running down to Cutlers Brook and comprises rough grassland. From here there are open views southwards to the escarpment. Two lines of non-native hybrid black poplars cross the western section, which were grown as shelter belts for the nursery stock.
32. Unlike Albourne and the surrounding countryside, I do not consider that the



appeal site is typical of the LCA of which it forms a part. Although it includes some characteristics such as the shallow ridge and some outward views to the escarpment, its tree and hedge lines are not particularly strong and its use as a nursery over many years has changed its character substantially. In my opinion, it is not well integrated with the wider landscape.

33. The appeal proposal is in outline, with the layout and external appearance to be considered at a later stage. However, the Parameters Plan and Sketch Layout help to establish some basic principles. The *Arboricultural Impact Assessment* indicates that a number of trees and tree groups within the site would be removed. These include the non-indigenous conifers and all those to be felled are judged by the Tree Survey to be of low quality and value. The better trees are mainly along the site boundaries and would be retained. Some of the hybrid black poplars would be removed but most would be assessed and, if necessary, there would be a phased programme of replacement with native tree stock. There would also be additional indigenous tree planting in the south-western corner in front of the incongruous conifer hedge along the boundary with Spurk Barn.
34. The built development would be within the western and eastern parts of the site with groups of cottages and apartment buildings set within landscaped gardens and interspersed with intervening belts of trees. The cottages would be one and a half storeys in height whilst the apartment buildings would be two-storeys with some higher elements incorporating accommodation in the roof. A 10m landscaped swathe between the trees along the London Road boundary and the adjacent apartment buildings is proposed. The largest building would be the two-storey clubhouse, which would be at the northern end of the site. There would be views maintained through to the South Downs escarpment, although these would be within the context of a built environment.
35. Undoubtedly the character of the site would change. The proposal would replace open and largely undeveloped land with buildings and hard surfacing within a green framework. However, as the site shares few of the features that provide this LCA with its identity and taking account of the large area that it covers, the overall impact would be small-scale and localised. In terms of the tree cover, the replacement of the non-indigenous species, especially the conifer stands, with native trees would be a landscape benefit that would increase as the new planting matures. For the reasons given below, I do not consider that the appeal scheme would be seen as an expansion of the ridgeline village. However, for the aforementioned reasons, the harm that would arise to landscape character would be relatively small and would reduce over time.

#### Visual effects

36. There are public footpaths close to the northern and western boundaries of the site and these run west and south into the open countryside. They appear to be well used and provide attractive routes that link up with a wider network of paths for informal recreation. Walkers are likely to particularly value the rural nature of these paths and the attractive views of the South Downs escarpment and Wolstonbury Hill. These people will be attuned to the environment through which they pass and thus highly sensitive to change. However, it is important to remember that this will be a kinetic experience, which will continually

change as the receptor moves through the countryside.

37. During my visits to the area, I walked along the adjoining footpaths and to my mind the place where the impact of the new development would be greatest would be from the stretch of Footpath 19/1AI that runs adjacent to the northern boundary. From the direction of London Road, the site is on the left. At present there are intermittent inward views between trees and vegetation, with a framed view of the escarpment about half-way along. However, this corridor is not altogether rural in character and the inward view includes the hard standings, roadway and bungalow as well as tall stands of conifer trees. In addition, on the other side of the footpath is the large, hard surfaced car park of the **Brethren's Meeting Hall**. Whilst this is relatively well screened by the mixed indigenous hedge along the boundary, there are glimpses through the green wire fence and a full view through the metal gate. In addition, the managed appearance of the hedge and tall lighting columns that project above it further detract from the rural ambience. Further along the path, the large barrel roofed building itself comes into view.
38. Nevertheless, the appeal development would result in a considerable change on the southern side of the footpath. Whilst the Sketch Layout shows some tree retention and a belt of new planting, the new buildings would be evident to the observer and most particularly the long rear elevation of the clubhouse. Whilst a view of the South Downs would be maintained this would be framed by built development rather than vegetation. The existing user experience would therefore be considerably diminished although the adverse effects would be reduced over time as the new planting matures. Furthermore, these effects would be experienced over a relatively small section of the walk. Once past the site the footpath emerges into open farmland.
39. Approaching the site along Footpath 19/1AI from the other direction, there is a wide panorama. At various points this includes the **Brethren's Meeting Hall** building, the houses in the village amongst trees, the vineyard and the roof of Spurk Barn with Wolstonbury Hill behind. There are glimpses through the trees along the western site boundary of the bungalow and the conifers along the London Road frontage. The understorey is variable, and following development I have little doubt that filtered views of the new buildings would be seen, especially during the winter months. Whilst reinforcement planting with species such as holly would provide more screening, I am doubtful that it would be wholly effective in the longer term. Although there would be large gaps between the clusters of new buildings, the context of Spurk Barn as a lone rural outlier would also be compromised.
40. Footpath 18AI runs close to the western site boundary but when moving southwards the **walker's** attention is likely to be particularly drawn to the open panoramic view of attractive countryside and the dramatic form of the South Downs escarpment in the background. Views into the site would be to one side and secondary in the overall experience. In the other direction, Spurk Barn is the first building to come into view on the right-hand side. With its relatively open frontage and domesticised curtilage, the effect of the new development behind the trees would not be particularly pronounced.
41. Along the eastern site boundary, the bank with trees and understorey vegetation provides a relatively good screen to London Road. However, in

places the cover is patchier and there are filtered views into the site, which will be more pronounced in winter. Motorists would be concentrating on the road ahead and so would have a lower awareness of changes to the peripheral view. There is a footway along the eastern side of the road, and I was told that this is relatively well used by dog walkers and those working in the businesses further to the south. For these people there would be a change, but it would be on one side and within the context of a relatively busy road and the existing built development along the eastern side of London Road.

42. The north-eastern corner of the site would be opened up with a new section of footway along the frontage and a new engineered access. This would entail some frontage tree removal, although the higher value oak tree is shown to be retained. From this point there would be a considerable change with views of the new clubhouse, cottages and apartments. New landscaping would provide some mitigation and the change would be experienced within the context of other urbanising influences. These include the wide green metal gates and **entrance to the Brethren's Meeting Hall adjacent** and the relatively prominent historic stuccoed houses opposite.
43. I observed the site from more distant footpaths, approaching along London Road in both directions and from various points in Church Lane. However, taking account of the undulating topography and the benefit of distance, I judged that the visual impact would be largely benign. I walked up Wolstonbury Hill and to **the Devil's Dyke but was unable to** identify the site from these more distant locations due to the vegetation cover. It may be that there would more visibility following development and in winter. However, this would be within the context of a wide panorama that includes built development.
44. In the circumstances, even if it were to be seen, I do not consider that the appeal scheme would materially detract from the enjoyment of these panoramic views. The site is not within the Dark Skies zone of the South Downs National Park and whilst the development would introduce new lighting this could be controlled. In addition, it would be seen within the context of lights in other villages, towns and roadways. In the circumstances there would be no conflict with policy ALC2 or the dark skies initiative in the ANP.
45. For all of these reasons I consider that there would be some adverse visual impacts, particularly for footpath users and at the site entrance on London Road. However, these would be limited and localised. The adverse effects would be reduced but not eliminated as new landscaping and tree planting matures.

#### Effect on the character of the settlement of Albourne

46. Albourne is a ridgeline village and its main historic core is around The Street and Church Lane with a smaller historic group of houses to the north at Albourne Green. By the mid-20<sup>th</sup> century the space between these two areas had been infilled and later still the village expanded eastwards. The village therefore has a mixed character with the older parts in particular being defined by their wooded setting. The village boundary is quite tightly defined for policy purposes. However, as often happens, there is a more dispersed settlement pattern with linear development radiating outwards along the road frontages,

including along the eastern side of London Road as far as Cutlers Brook. The built-up area is therefore more extensive than the policy boundary.

47. The agrarian landscape provides the setting for this Downland village, but for the reasons I have given above the appeal site is not representative of its rural surroundings. Whilst it is largely undeveloped, in my opinion it contributes little to the context of the village. On the other hand, the proposed development would not appear as a natural expansion of the built-up area either. I appreciate that it would not extend it further to the west or south, but this is a factor of little consequence. The dispersed nature of the settlement is mainly due to frontage development, which the appeal proposal could not claim to be.
48. **The Brethren's Meeting Hall** is a development that physically, functionally and visually stands outside the village. The appeal scheme would be further to the south and appear as an outlier that would not conform to the prevailing pattern of development described above. On the other hand, it would share some of the features of the village. For example, the site benefits from a local ridgeline and over time the new buildings would stand within a well treed environment. Furthermore, the *Design Commitment Statement* indicates that the design approach is to create a development that reflects the surrounding architecture and landscape. The appearance of the new buildings is a matter that can be controlled by the Council at reserved matters stage.
49. There has been a great deal of local concern about the size of the development relative to the existing village. The Parish Council indicate that Albourne has about 250 households and some 650 residents. It therefore points to an increase in size of over 30%. For the reasons I have already given, I do not consider that this development would appear as a natural extension to the village. However, the proposed shop, lockers, electric charging points and workshops, which I discuss later, would allow a degree of community integration. The village itself has grown incrementally and cannot be viewed as a set piece that has not changed over time. There may be harmful impacts from an increasing population in terms of highway safety and insufficient infrastructure, for example and I consider these later. However, the size of the development in itself would cause little harm to the character of the village, in my judgement.

#### Effect on agricultural land

50. Paragraph 170 of the Framework seeks to recognise the benefits of protecting the best and most versatile agricultural land, which is classified as Grades 1, 2, and 3a. The appeal site is shown on the *Provisional Agricultural Land Classification Maps* as being within an area of Grade 2, which denotes very good quality farmland. However, these maps were not based on physical surveys. They were intended to provide strategic guidance for planners on a small-scale map base. Natural England in its *Technical Information Note TIN049*, advises that they are outdated and should not be relied on for individual site assessments.
51. The Appellants commissioned an *Agricultural Land Classification Report*, which was based on a site survey carried out in February 2020, including examination of 5 auger samples and a trial pit. This concluded that the land was grade 3b with shallow soils over a depth of dense clay subsoil. This is the best available

evidence and I am satisfied that the development would not result in the unacceptable loss of high value agricultural land.

#### Overall conclusions

52. The appeal site is located within the open countryside, outside the built-up area and not contiguous with its boundaries. There would be some residual adverse landscape and visual impact, although this would be localised and limited in nature. There would also be a small adverse effect on the character of the village of Albourne because the development would not be seen as an expansion to the main built-up area of the village nor reflect the frontage development along the peripheral roads. There would be no adverse impact on the South Downs National Park or views from within it. Nevertheless, there would be conflict with policy DP6, DP12 and DP15 in the MSDP and policies ALC1 and ALH1 in the ANP.

#### THE EFFECT OF THE PROPOSAL ON HERITAGE ASSETS

53. There is no dispute that the designated heritage assets affected would be the four Grade II listed houses on the eastern side of London Road. The effect would derive from changes to their setting and it is agreed that any harm would be less than substantial in nature and that paragraph 196 of the Framework would be engaged whereby harm is to be weighed against public benefits. Unlike the setting of the listed buildings, the setting of the Albourne Conservation Area is not protected by statute. Nevertheless, the same considerations will apply as a matter of policy in terms of weighing harm to significance against benefits. Spurk Barn is adjacent to the south-western corner of the appeal site and is a non-designated heritage asset. Paragraph 197 of the Framework makes clear that a balanced judgement should be made, having regard to the scale of any harm and the significance of the asset.

#### The listed buildings

54. There was much discussion at the inquiry about the contribution of the appeal site to the significance of the listed buildings. Elm House, Tipnoaks and Hillbrook House are two-storey stuccoed villas built in the early 19<sup>th</sup> century. These were modest **country houses, which demonstrated their owners'** aspirations for elegant country living with their classical, well-proportioned facades and convenient roadside location outside the main village. The immediate setting is provided by the gardens in which they stood but the wider rural environment, including the fields to the front and rear would have contributed to the pastoral context and significance of these houses. It can be seen on the 1874 Ordnance Survey Map that there are 4 subdivisions on the appeal site. This suggests that by this time the land was being used as a market garden or commercial nursery.
55. Mole Manor was of earlier construction and the 1839 Tithe Map shows it standing in an isolated position on the eastern side of London Road. It is a rare example of a modest Sussex cottage with a red brick and clay tile construction and an isolated countryside setting and these factors contributed to its significance. In my opinion its setting was significantly compromised by the building of Elm House and Tipnoaks. These more substantial houses overpower the cottage as they not only join it on either side but also stand well forward of its front elevation.



56. There is also significance derived from the listed buildings as a group. In this respect, Mole Manor makes a contribution through its style and character, which is in contrast to the classical form and proportions of the stuccoed villas.
57. The appeal site was clearly part of the countryside setting when these buildings were built and thus contributed to their significance. There is no indication on the 1874 map that there was tree planting at this stage and it is reasonable to surmise that originally the dwellings faced a relatively open landscape, which would have allowed the owners attractive views from the front of their houses. In any event, by 1910 the Ordnance Survey map shows a tree belt along the eastern boundary and some tree planting within the site itself. Whilst the context is therefore likely to have changed somewhat, the westerly outlook would still have been essentially green and rural with likely views through the trees into the site.
58. More substantial changes occurred in the mid-20<sup>th</sup> century as Albourne expanded and the London Road was re-engineered and widened. More recently still there has been further development along London Road, including to the south of Hillbrook House and the Brethren's **Meeting Hall**. The latter appears to have been on land formerly used as part of Hazeldens Nursery. The wider pastoral environment has thus been considerably eroded over time, which has diminished the historical understanding provided by the wider setting of these listed buildings. Their individual and group significance is now mainly derived from their fabric and the immediate setting of their garden plots.
59. Following development, the views towards the appeal site would change through the introduction of a new access, a footway along the London Road frontage and views towards a built environment. The effect would be greatest in respect of Tipnoaks, due to its position opposite the site entrance. Hillbrook House stands further back from the road in an elevated position and there would be filtered views of the new buildings from within its site through and above the roadside vegetation. There would therefore be some further change to the context in which the listed buildings would be appreciated but, for the reasons I have given, I consider that the effect on significance would be relatively small.
60. With respect of Elm House and Mole Manor the harm would be at the lower end of the scale of less than substantial harm. With respect of Tipnoaks and Hillbrook House it would be slightly higher but still lower than moderate, with a similar effect on the significance of these houses as a group. Whilst the choice of materials, design and landscaping of the new development would be controlled through reserved matters, the impacts I have identified are unlikely to be materially reduced over time.

#### Spurk Barn

61. This agricultural building is a non-designated heritage asset probably dating back to the 19<sup>th</sup> century. Its primary interest is in its form and fabric with flint and brick construction and the retention of many original features. The boundary lines on historic maps suggest that Spurk Barn was not functionally connected to the appeal site. Indeed, with no obvious connection to any local farms it was probably an isolated field barn associated with the agricultural land to the west.

62. Spurk Barn has been converted to residential use and windows have been added along with an extension. Its immediate setting is now a domestic garden and parking area. Along its boundaries with the appeal site is a thick conifer hedge. Although this could be removed it would seem unlikely due to the privacy it affords. The significance derived from the wider setting is mainly across the open agricultural land to the west. Nevertheless, the largely undeveloped nature of the appeal site does contribute to the sense of isolation of the building, particularly in views from Church Lane and sequentially when walking east along Footpath 19/1AI and south along Footpath 18AI.
63. As I have already concluded above, the proposed buildings would be seen, especially in the winter months, through gaps in the trees and understorey along the western site boundary. Whilst the effect would be to have an adverse effect on the appreciation of the barn as an isolated entity, its value as a field barn is now diminished on account of its residential conversion and the domestication of its grounds. To my mind this undesignated heritage asset has a relatively low level of significance. The small degree of harm that would arise from the appeal proposal would also be further reduced over time as reinforcement planting matures, including the band of new trees between the conifer hedge and built development.

#### Albourne Conservation Area

64. This comprises the original historic core of the village at the southern end of The Street and along a section of Church Lane. The only appraisal is found in *The Conservation Areas in Mid Sussex* (August 2018), which notes five features that contribute to its character. These include the trees and hedges; the sunken road relative to many of the houses with attractive retaining walls; the cottage style houses with small windows; the lack of a set building line or footway with varying road widths and a meandering rural character; and the attractive countryside views to the west and south. The latter is the only one relevant to setting.
65. At one time no doubt the appeal site, because of its relatively open and undeveloped character, would have played some part in this respect. However, modern housing on the south side of Church Lane and the construction of the **Brethren's Meeting Hall** building and car park has provided a visual intervention that has meant that it no longer contributes in this way. The main southerly aspect is provided by the fields beyond its western boundary. Even if there were glimpses of the new development through the trees from the southern part of the conservation area, which is doubtful, they would be peripheral and oblique.
66. It is also the case that the Council did not consider that the proposed **development of the Brethren's Hall** site would have any adverse impact on the conservation area, notwithstanding that the large building with its incongruous design would be in close proximity to the southern edge. I appreciate that this development was built on exceptional grounds of need but that does not negate the requirement to consider the effects on the setting of the heritage asset. Furthermore, *the Council's Strategic and Economic Land Availability Assessment* (2018) did not consider that a potential yield of 132 houses on the appeal site would negatively impact on the heritage asset. **The Council's** objection now in terms of harm to setting therefore seems to me to be

inconsistent.

67. It is likely that Albourne depended on farming and market gardening for its growth. However, in the absence of a detailed appraisal the only evidence of the features that contribute to its character are those in the aforementioned 2018 document. There is nothing to say that the tree nursery financed buildings in the village and even if it did this use has long ceased. This was certainly not a matter referred to in respect of the development of the land to the north, which was also part of the nursery at one time.
68. For all of the above reasons I do not consider that the appeal site provides part of the setting of the Albourne Conservation Area. It follows that the appeal development would have no effect on the significance of the designated heritage asset.

#### Overall conclusion

69. Drawing together all of the above points it is concluded that the appeal proposal would cause less than substantial harm to the significance of the Grade II listed buildings, Elm House, Mole Manor, Tipnoaks and Hillbrook House. This would be at the low end of the scale but nevertheless is a matter to which considerable weight and importance should be ascribed. There would be a small degree of harm to Spurk Barn, but this will need to be considered against the relatively low significance of the building. The relevant balancing exercise will be undertaken later in the decision and a conclusion reached as to whether the appeal proposal would conflict with policy DP34 in the MSDP. The Albourne Conservation Area and its setting would remain unaffected by the appeal scheme. The appeal proposal would therefore comply with policy DP35 in the MSDP.

#### WHETHER THE SITE IS WITHIN AN ACCESSIBLE LOCATION, GIVING NEW OCCUPIERS THE OPPORTUNITY TO TRAVEL BY MODES OTHER THAN THE PRIVATE CAR

70. There is an age restriction of 65 years for primary occupiers of the proposed development, although younger partners would not be excluded. Nevertheless, I was told that the average age of Retirement Villages' occupants is 82 years and that only about 25% are couples. Bearing in mind the nature of the scheme with its care component, it is reasonable to surmise that most people living there would be in the older cohort. That does not mean to say that some residents would not still drive but it is unsurprising that the evidence indicates a lower level of car ownership than general purpose housing and that car sharing is popular on other Retirement Villages' developments.
71. Residents living in the proposed development would occupy a self-contained cottage or apartment. The purpose, unlike a care home, is to maintain independence although the degree will vary depending on the care needs of the individual. Nevertheless, each dwelling is fitted with a kitchen and although there is also a restaurant within the communal building on the site, it is anticipated that many will also wish to cook for themselves. Albourne is a Category 3 village and has no shops or facilities apart from a village hall and primary school. There is a volunteer run community shop in Sayers Green, but other than that, the nearest shops are in Hurstpierpoint, where there is also a health centre, post office and pharmacy.

72. It seems unlikely that residents, even those with good mobility, would walk to Sayers Common or Hurstpierpoint, although a few may undertake the relatively short cycle ride. The nearest bus stops are some 85m from the site travelling north and 250m from the site travelling south. These serve the 100 bus to Burgess Hill, which is a Category 1 settlement with higher order shops, services and facilities. A bus journey would take about 11 minutes, although the bus only runs hourly and not on Sundays. Nevertheless, residents would not be making regular work journeys and it seems to me that the bus may be a viable choice for some trips such as visits to the supermarket or bank, for example.
73. The bus stops for the 273 service are some 560m away, north of the Albourne Road traffic lights. This service runs through Hurstpierpoint, which is a bus journey of about 5 minutes. However, the bus runs only every 120-160 minutes and, again, not on a Sunday. The journey would therefore need to be carefully planned and would be most likely to take the form of an outing rather than a trip for a dedicated purpose.
74. The proposal is that there would be a shift pattern for staff, with about 15 being on site at any time. The information from the **Retirement Villages'** other sites is that staff are in general drawn from the local area, with over half living within 5 miles and 82% living within 10 miles. The analysis indicates that most staff living within 5 miles are likely to come from Burgess Hill. This would be within cycling distance and the 100 service would also be an option for some shifts. However, the bus only runs until the early evening and not at all on a Sunday. There may well be some flexibility in terms of shift patterns, but the bus would not be an option for late evening, early morning or Sunday travel.
75. The Framework indicates that the opportunities to maximise transport solutions will vary between rural and urban areas and this should be taken into account in decision-making. It also says that significant development should be focused on locations which are or *can be made* sustainable. In this case the Appellants have included a number of provisions to improve the accessibility credentials of the proposed development.
76. A dedicated non-profit making minibus would be provided for use by residents and staff. The S106 Agreement includes a covenant for its provision and the evidence indicated that it could be used for shopping trips, GP and health related appointments and day outings. It would also be available for staff travel, subject to the payment of subsidised charges. I was told that this could be used for late evening shifts when the bus has stopped running or for pick-ups from bus stops or the railway station in Hassocks. Whilst some staff, especially those on a late shift or working on a Sunday may prefer the convenience of a car, the existence of this option would extend the available modal choice for staff, provided the subsidised charges are reasonably priced.
77. The proposed development would be subject to a Final Travel Plan before the development is first occupied. This would be based on the *Travel Plan* submitted with the planning application, which includes various targets to increase public transport, cycle and pedestrian trips. Measures include the provision of a length of new footway along the western side of London Road to link the site to the northbound bus stop; cycle parking facilities with changing and washing facilities for staff and discounts on bicycles and cycle equipment; and the minibus. In addition, the traffic calming measures would include an

uncontrolled crossing and pedestrian refuge. Along with the introduction of a 30mph speed limit, this measure would provide those residents wishing to cross London Road, for example on the way back from the bus stop, with a safe means of doing so.

78. The on-site facilities in the communal building are also a relevant factor. This includes a small shop to provide fresh products and basic groceries. I saw the shop at Charters, which had quite a good range of everyday goods including fresh fruit and vegetables, dairy products, tinned items and toiletries. The clubhouse would also have a small library, hair salon, therapy room, bar and restaurant. Clearly providing these facilities on the site would have the potential to reduce the number of external journeys that residents would have to make. I was told that the various facilities are not intended to be profit making and the UU includes a covenant that they would be operated and managed by the Owner or the Management Company. That they could not be leased to a commercial operator gives some comfort that they would continue to operate effectively in the longer term in accommodate daily needs of residents.
79. It seems to me that the appeal proposal has done what it can to enhance accessibility. Residents and staff would have genuine choices available to undertake journeys by modes other than the private car. This is a rural area where it is to be expected that travel options are more limited than in a town and the car would undoubtedly be used for some trips. Every decision turns on its own circumstances but, insofar as there are similarities, I have not reached the same conclusion as the Bolney Inspector for the reasons I have given. I consider that the appeal scheme would be relatively sustainable in terms of location to minimise the need to travel. Overall it would not conflict with policy DP21 in the MSDP.

## THE BENEFITS OF THE PROPOSAL

80. For the avoidance of doubt, in ascribing weight to the benefits I have used the following scale: limited, significant and substantial.

### The need for extra care housing

81. Paragraph 61 of the Framework requires that the size, type and tenure of housing needs for different groups in the community, including older people, should be assessed and reflected in planning policies. The glossary indicates that these are people over or approaching retirement age. They will include the active elderly at one end of the scale and the very frail elderly at the other. There will be a range of housing needs from adapted and accessible general needs housing to specialised accommodation with support or care.
82. The June 2019 version of the *Planning Practice Guidance* includes its own expanded section on housing for older and disabled people. It makes the point that the need to provide housing for this group is critical in view of the rising numbers in the overall population. Furthermore, it considers that older people should be offered a better choice of accommodation to suit their changing needs in order that they can live independently for longer and feel connected to their communities. Extra care housing is recognised by the Government as providing such benefits.



83. The Council's **consideration** of the housing needs of elderly people can be found in the *Housing and Economic Development Assessment Addendum* (the HEDNA Addendum) published in August 2016. This provided part of the evidence base to the MSDP and uses the 2014-based population and household projections (released in 2016). Amongst other things the HEDNA Addendum considers the need for specialist housing for older people, including extra care housing, using the *Strategic Housing for Older People Analysis Tool* (SHOP@). This is given as an example of an online toolkit for assessment in the *Planning Practice Guidance* but the document neither endorses its use nor precludes the use of other methodologies. It is important to bear in mind that whichever model is used, its output will be determined by the assumptions on which it relies.
84. The SHOP@ toolkit is preset with the number of units required per 1,000 of the population over 75 years old at 25 or 2.5%. This I shall refer to as the **"provision rate"** and it has been derived from *More Choice Greater Voice* (2008), which is a document that seeks to provide a strategy for housing with care for older people. It is important to have in mind that the provision rate is an assumption and is not evidence based. The Council pointed out that a provision rate of 25 is roughly double that for extra care housing nationally. However, that reflects the critical need across the country and is not particularly helpful in the consideration of how need should be met in Mid Sussex.
85. In December 2012 *Housing in later life: planning ahead for specialist housing for older people* sought to update *More Choice Greater Voice*. It recognises that extra care housing was becoming better known as an alternative choice for older people who do not necessarily want or need to move to a residential care home. Furthermore, it recognises a prevalence for home ownership in the elderly population and predicts that demand for extra care housing for sale will be twice that of extra care housing for rent<sup>1</sup>. It provides a toolkit for use by local authorities in their planning for and delivery of specialist housing for older people. It seeks to improve housing choice for a growing ageing population and increases the provision rate to 45 or 4.5% per 1,000 of the population over 75 years old. Whilst a worked example is given for Bury Metropolitan Council, it seems apparent from the information provided that this provision rate is one that is more generally applicable. That said, it is important to understand that this is an aspirational figure and is also not evidence based.
86. The assessment in the HEDNA Addendum relies on population data that is now out-of-date. Its conclusions on elderly care needs justify reconsideration using the 2016-based population data. The only such assessment has been provided by the Appellants and, on the basis of a provision rate of 2.5%, this indicates a demand for extra care units of 386 in 2020. On the basis of a 4.5% provision rate the equivalent figure is 694 units.
87. **In the Council's assessment the** tenure split of extra care housing has been set at 73% rent and 27% purchase. In Mid Sussex private leasehold extra care provision is limited to a single development at Corbett Court in Burgess Hill. In terms of extra care units for rent, the database is out-of-date because since 2014, 68 units have been demolished. The Council conceded at the inquiry that the figures in the HEDNA Addendum for extra care provision are thus out-of-

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<sup>1</sup> Extra care housing for sale is generally on the basis of a leasehold tenure.

date. The current (2020) supply is lower, the need is higher, and the tenure split, based on existing provision and the corrected supply, would therefore be about 60% rent and 40% purchase.

88. In Mid Sussex the evidence indicates that the vast majority of older people are owner occupiers. Many of these people will be able to continue to live in their own homes through old age with the necessary adaptations and care support. However, not all homes are suitable. In such cases a homeowner may be attracted to an extra care facility where they can continue to own their own home and maintain a degree of independence whilst enjoying support and care within a secure environment. Within Mid Sussex such choice is largely unavailable.
89. The Appellants have used a tenure split of 33% rent and 67% purchase in their modelling. Whilst this is recognised as favouring an owner-occupied solution it nonetheless reflects the local housing market in Mid Sussex. Furthermore, it aligns with national policy insofar as it redresses the balance towards greater flexibility and choice in how older people are able to live. It is to be noted that the SHOP@ toolkit itself recognises that the percentage of leasehold tenures will increase in the future and that areas of affluence will see a higher percentage increase by 2035. In such areas, which includes Mid Sussex, it suggests a tenure split more redolent of the Appellants' modelling.
90. The Council argued that the tenure split is of less importance than the headline figure. However, the evidence indicates that the extra care properties for rent in this District are managed by Housing Associations and therefore an existing homeowner would be unlikely to qualify for occupation. It also appears that the pipeline supply of extra care housing is all social rented tenure. It is therefore reasonable to assume that maintaining a tenure split that favours rental units would be unlikely to allow realistic alternative options to the majority of older people who are currently homeowners. In the circumstances and based on the specific evidence I have been given, I consider that the Appellants' assessment of demand in terms of tenure is more credible and thus to be preferred.
91. The existing supply, taking account of the aforementioned demolitions, is 142 extra care units. If need is defined as the difference between supply and demand, then **even on the Council's favoured provision rate it** currently stands at 244 extra care units. The information indicates that there are planning permissions for some 132 additional extra care units in the pipeline, including 60 on the Burgess Hill strategic site. Whilst there is no national policy imperative to maintain a 5 year supply **of older person's housing** as is the case with housing generally, this nonetheless signals a significant residual unmet need regardless of tenure. **On the basis of the Appellants' higher provision rate** it would be even greater at 552 units. Either way it would rely on the permitted units being built expeditiously. Using the tenure split favouring leasehold provision, the **Council's assessment would be** of a current need for 163 leasehold **units whilst the Appellants' assessment would be for 368** leasehold units. The evidence indicates none in the pipeline supply.
92. Whilst there is no requirement in national policy or guidance to specifically allocate sites for specialist housing for older people, the *Planning Practice Guidance* does indicate that this may be appropriate where there is an unmet need. The response in Mid Sussex is to apply a flexible approach through policy

DP30 and the Council pointed out that the strategic allocations include provision for a range of housing, including for older people. Policy DP30 also indicates that further allocations may be made in the SA DPD if a shortfall is identified. Policy DP25 has a similar provision to meet local needs for community facilities, which include care homes and specialist housing. In the SA DPD there is a single residential allocation in East Grinstead that includes a **"care community"**. **There is though no detail as to** the number or type of units and, in any event, the emerging status of the document means that very little weight can be given to it at the present time.

93. In the circumstances I consider that the evidence indicates a significant level of current unmet need, in particular for extra care leasehold housing, whichever provision rate is adopted. Furthermore, this will significantly increase over the local plan period. This situation has not been helped by the slow progress on the SA DPD and the failure to recognise an unmet need that is clearly evident. **The Council's riposte that it is not being inundated by enquiries or applications** for this type of development does not seem to me to be a very robust or objective yardstick on which to rely. For all of these reasons I consider that the provision of extra care units by the appeal development to be a matter of substantial weight.

#### Freeing up family sized homes

94. As has already been said, in Mid Sussex a large proportion of those people 65 years of age and above are owner occupiers. Furthermore, the evidence indicates that a considerable number of older householders under occupy their homes. Indeed, the MSDP indicates in the supporting text to policy DP30 that providing suitable and alternative housing for this cohort can free up houses that are under occupied. It also records that a significant proportion of future household growth will generate a need for family sized homes, including those with over 3 bedrooms. This is reflective of the national picture.
95. There is though insufficient evidence to determine the proportion of new occupiers that would necessarily derive from the local area. Whilst Retirement Villages' analysis indicates that a third of moves to its developments have been from a 5 miles radius it also indicates that about 40% come from further than 20 miles. There is therefore likely to be some benefit to the local housing market as well as a contribution made in terms of the national housing crisis. Overall, I give this benefit significant weight.

#### On site facilities for use by the public

96. The appeal development would include some facilities that would be available for use by those living outside the development. Albourne has no village shop and whilst the proposed unit would be relatively small with a limited range of goods it would stock day-to-day staples as I have already indicated. Residents in the village could walk or cycle to the shop and it would, in my opinion, provide a useful facility for those living nearby. I give this benefit significant weight.
97. The lockers would allow those living nearby a point from which to collect online deliveries. This would provide a convenient option if the person who ordered the goods was not going to be at home. However, many delivery companies offer specific time slots or the opportunity to nominate a safe place at home

where the package could be left. These options would clearly be more convenient and, although the availability of the lockers could be useful in some circumstances, I give the benefit limited weight.

98. The two workshops would be available for local artisans as well as residents. However, I am not convinced that there is evidence of a demand for such facilities. In the circumstances, I give this benefit limited weight.
99. Three rapid electric charging points would be available for use by the general public as well as by residents. I am not aware of any similar facilities for public use in the vicinity. This would therefore provide an opportunity to those who wish to take advantage of a fast charge, perhaps combining it with a visit to the shop. I therefore give this benefit significant weight.

#### Highway safety and traffic calming

100. There was local concern that the appeal proposal would be harmful to highway safety. I am satisfied from my observations that lines of sight and the geometry of the new access would be satisfactory to allow for safe entry and exit. West Sussex County Council has a statutory responsibility to ensure the safety of the local highway network. It has not raised objections to the scheme on these grounds and this is a matter of considerable importance. The forecast trip generation would be relatively small and there is no evidence that London Road would have insufficient capacity to accommodate the additional vehicles safely. The proposed parking provision would exceed the **Council's minimum standards**. There is therefore no reason why there should be any overspill parking onto London Road.
101. The application drawing no: 1701-56 SK08 Rev B shows a number of measures to improve road safety within the vicinity of the appeal site. These include gateway features with kerb build outs and pinch points and a new 30 mph speed restriction between a point south of the limit of the built development on the eastern side of London Road and a point between the junction with Church Lane and the junction with Albourne Road. In the vicinity of the site entrance the road width would be narrowed and to the south of this would be an uncontrolled crossing with a refuge island and dropped kerbs.
102. These measures would be controlled by a planning condition. For the reasons I have given I consider them necessary to encourage reduced traffic speeds and allow residents to cross safely from the bus stop on the eastern side of London Road. However, it also seems to me that there would be some wider benefit due to decreased traffic speeds in the vicinity of the Church Lane junction, which is one of the main entrances into the village. I note that the ANP includes an aim to develop a scheme to improve the safety of road users utilising the local stretches of London Road and Albourne Road. It seems to me that this proposal would play some part towards achieving this objective. This benefit is attributed significant weight.

#### Economic and social benefits

103. There would be employment benefits in terms of the provision of jobs during the construction phase and also longer term in connection with the operation of the site. There would also be some further spending within local shops and facilities by the new population.

104. There is evidence to indicate that elderly people who live in an extra care environment, with all that it offers, benefit in terms of health and wellbeing. The secure community environment and sense of independence can reduce social isolation and encourage greater fitness and healthy lifestyles. It is reasonable to surmise that these factors are likely to result in a lower number of visits to the GP, reduced hospital admissions and overall savings to the National Health Service. The social and economic benefits are matters to which I give significant weight.

## OTHER MATTERS

### Ashdown Forest

105. The appeal site is outside the 7km zone of influence of Ashdown Forest Special Protection Area and therefore the issue of potential recreational disturbance would not be of concern. It is though necessary to consider whether there would be any effect on the Ashdown Forest Special Area of Conservation as a result of increased nitrogen deposition from vehicle emissions. **The Council's Screening Report indicated that** the in-combination transport model that supported the District Plan showed no overall traffic impact in terms of its strategy for housing and employment growth. The County Council considered that there would be about 4.6 additional daily trips that would travel to or through the Forest. I am satisfied with the conclusion of the Council that this would not result in a significant in-combination effect.

### Ecology

106. There have been a number of local representations relating to the ecological interest of the site. The Appellants' *Ecological Assessment* records the site as having relatively low value with much of its central area comprising managed semi-improved grassland. The most important areas for wildlife comprise the boundary trees and hedgerows, which are to be retained and protected during the construction period. The assessment includes a programme of mitigation prior to site clearance to take account of reptiles and in the unlikely event that Great Crested Newts are found to be present. These are protected species and it is an offence to undertake development that would cause them harm. Similarly, there is a requirement to protect birds during the nesting season.
107. There is no evidence that bats are using the bungalow as a roost. If that were found to be the case during demolition, work would have to cease to allow the proper licence protocols to be followed. Bats will use the site for commuting and foraging, especially along the retained hedgerow lines. A condition is therefore required to control the level and type of lighting to ensure habitats are not disturbed. Overall, I am satisfied that the development would not give rise to unacceptable harm to ecological interests.
108. There are also proposed enhancements to biodiversity including introducing species rich grassland, new hedgerows, a wild flower meadow and a new pond. Swift bricks and bat boxes would also be provided.

### Local healthcare services

109. There was local concern that the local healthcare facilities would be inadequate to serve the new residents. It is appreciated that existing residents often have to wait a considerable time to get a **doctor's** appointment



but that unfortunately is a much wider issue and applies to many places. Inevitably new residents will need medical care from time to time. However, there have been no representations from the local NHS Foundation Trust or local doctors objecting to the scheme or indicating an issue with capacity.

#### Residential amenity

110. Objections have been raised that the proposed development would result in overlooking and loss of privacy, particularly to properties on the eastern side of London Road. However, the Parameters Plan indicates a 10m inset of new development from the boundary treeline. Furthermore, the outline form of the proposal means that matters such as window positions would be determined at a later stage. In the circumstances, I am satisfied that there would be no unacceptable harm to the living conditions of existing residential occupiers.

#### Other appeal decisions

111. My attention was drawn to a number of appeal decisions, including some relating to other **Retirement Villages'** developments. A number were cited in relation to the Use Class matter, which is no longer an issue in this appeal. Most concerned other local authority areas and turned on their own evidence.
112. The appeals relating to Bolney were the subject of a recent decision in Mid Sussex District. One appeal was for a care home and the other for a care home and 40 age-restricted dwellings. The latter were classed as a C3 use. The conclusions of my colleague on need seem to relate to the care home (Class C2) element of the scheme rather than the extra care dwellings. In any event, I do not know what evidence was presented in respect of that scheme or whether tenure was a particular issue. I have commented on my **colleague's** conclusion on accessibility above. Overall, I do not consider that this decision is of particular assistance or relevance to the present appeal.

#### PLANNING OBLIGATIONS

113. The S106 Agreement and UU were considered in detail at the inquiry. They were each engrossed on 20 August 2020. I have considered the various obligations with regards to the statutory requirements in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations and the policy tests in paragraph 56 of the Framework. It should be noted that the Deeds contain a **"blue pencil" clause in the event I do not consider a particular obligation to be** justified in these terms. In reaching my conclusions I have had regard to the supplementary planning document: *Development Infrastructure and Contributions Supplementary Planning Document* (2018) (the SPD) and development plan policies, including policy DP20 in the MSDP, which relates to securing infrastructure.

#### The S106 Agreement

114. This is made between the Council, West Sussex County Council, the Owner (Notcutts Ltd) and the Developer (Retirement Villages Developments Ltd). The library contribution is based on a formula set out in the SPD and a worked example is provided in the First Schedule. This cannot be definitive at this stage as the final housing mix is not yet determined. In addition, the cost multiplier will change annually. Although the clubhouse would include a library, no details have been provided. The one I saw at Charters was very

limited in terms of its size and breadth of reading material. I consider that residents of the development would be likely to use the public library in Hurstpierpoint. The County Council indicates that its facilities would require expanding to cope with the additional population. In the circumstances I consider that the library contribution would be justified.

115. The TRO Contribution would be used to promote and advertise a Traffic Regulation Order to reduce the speed limit from 40 mph to 30 mph in the vicinity of the site. This would be part of the traffic calming measures, which have been referred to above. I was told that £7,500 reflected the fixed cost to West Sussex County Council of consultation and review and it therefore seems reasonable and proportionate.
116. The dedicated minibus would be provided prior to the occupation of any dwelling and the covenant includes its use for residents and staff in accordance with the Travel Plan. This is necessary to enhance the accessibility of the development as I have explained above.
117. For all these reasons I am satisfied that all of the obligations are necessary, directly related to the development and fairly related in scale and kind. They comply with Regulation 122 of the CIL Regulations and paragraph 56 of the Framework. They can be taken into account in any grant of planning permission.

#### The UU

118. A primary resident is a person who is 65 years or older and is in need of at least 2 hours of personal care a week. The basic care package, which it is obligatory to take, is defined to include a range of services that are needed by reason of old age or disablement following a health assessment. The health assessment is to be undertaken by the partner domiciliary care agency who must be registered by the Care Quality Commission. There is also provision for a periodic review of the health assessment to establish whether a greater level of care has become necessary. The domiciliary care agency would also provide a 24-hour monitored emergency call system.
119. The Communal Facilities would be provided in the clubhouse on the northern part of the site. They would include a number of facilities such as a restaurant, bar, lounge, library, therapy and exercise room, hair salon, function room, shop and collection facility. The covenants also require construction of the clubhouse prior to the occupation of any dwelling and all residents and their guests would have access to it. The shop and collection facility would also be accessible to non-residents. Restrictions on the operation of the communal facilities may be imposed by the Management Company, including in respect of the hours of opening of the shop.
120. The scheme would include 2 workshops within the clubhouse with details to be approved at reserved matters stage. These would be made available for use before more than 50% of the dwellings are occupied. They would be made available for use by residents and local businesses and subject to restrictions by the Management Company, including hours of operation and the nature of the use.
121. The Management Company would be established prior to the occupation of

any dwelling as a non-profit making legal entity. It or the Owner would manage the sustainable drainage system (SuDS). It or the Owner would also operate the workshops, shop and collection facility. Any profit received by the Management Company from operating the Communal Facilities and workshops would be used to offset against the annual service charge payable by each homeowner. There is also a restriction on the disposal of the communal facilities or workshops.

122. The Covenants by the Owner to the Council are contained within the First Schedule to the Deed. They are required to ensure that the development would operate effectively as an extra care facility within Use Class C2, which formed the basis of the planning application and on which it has been assessed. They would ensure that the communal facilities are operated and managed for the long-term benefit of the residents living on the site and that the drainage system remains effective and fit for purpose during the lifetime of the development. I consider that all of the obligations are necessary, directly related to the development and fairly related in scale and kind. They comply with Regulation 122 of the CIL Regulations and paragraph 56 of the Framework. They can be taken into account in any grant of planning permission.

#### PLANNING CONDITIONS

123. A list of planning conditions was drawn up by the main parties and these were discussed at the inquiry. My consideration has taken account of paragraph 55 of the Framework and advice in the Planning Practice Guidance. In particular I **have had regard to the Government's intention that planning conditions** should be kept to a minimum and that pre-commencement conditions should be avoided unless there is clear justification. The Appellants have confirmed acceptance in writing of those pre-commencement conditions that have been imposed. I have changed the suggested wording in some cases to ensure that the conditions are precise, focused, comprehensible and enforceable.
124. The Appellants have agreed to a shorter implementation period in this case to reflect the case that it has put forward about the scale of the current unmet need. I was told that Retirement Villages will be developing the site itself and thereafter managing the development as part of its extra care portfolio. Much store was set on the high quality of the development and the way the proposed layout had been designed to respect the existing landscape and views. In order to ensure that this is carried forward into the scheme that eventually materialises it is necessary to require compliance with the Parameter Plan and Sketch Layout. For similar reasons and to ensure that the development fulfils its intended purpose, a condition limiting the number of dwellings to 84 is required.
125. A relatively recent *Ecological Impact Assessment* has already been submitted and so I consider it unnecessary to require further details to be submitted. A condition is though necessary to ensure that the mitigation and enhancement measures are implemented in order to protect ecological interests and improve biodiversity. The suggested condition on ecological management requires details that have already been submitted in the above assessment. I have therefore reworded the suggested condition accordingly. Although landscaping is a reserved matter, it is appropriate at this stage to ensure that

protective measures for retained trees and hedgerows are provided during construction in order to protect wildlife and visual amenity. I have reworded this to take account of arboricultural information that has already been submitted. For similar reasons a condition requiring the arrangements for the management and maintenance of the landscaped areas is required.

126. The landscaped grounds would be communal areas and individual dwellings would not have amenity space other than a small patio area for sitting out. The erection of individual private enclosures would not fit in with this ethos or the open character of the site. In the circumstances a condition is necessary to remove permitted development rights for the erection of such features and to retain the gardens as places for all residents to enjoy.
127. The construction period would inevitably cause some disturbance and inconvenience to those living and working in the area as well as to road users. A Demolition and Construction Management Plan is therefore required to help minimise adverse impacts. Separate conditions have been suggested to prevent the burning of waste material and restrict working hours. This is unnecessary as both of these matters would be covered by the provisions of the Plan.
128. A desk-based assessment submitted with the planning application concluded that the archaeological potential of the site was low. It recommends further investigation in the form of trial trenching. The County Archaeological Officer commented that there was nothing to indicate that remains were of a standard that would require preservation in situ. A condition is therefore appropriate to require a written scheme of investigation. There are significant gradient changes across the site. In order to ensure that the development would be visually acceptable, details of ground and floor levels are required.
129. The site has been previously used as a tree nursery with various buildings and glasshouses. The evidence suggests that contamination risks would be generally low. A precautionary but proportionate response is justified with a sequence of conditions that would require actions depending on whether contamination is found to be present.
130. Separate conditions are necessary for foul and surface water drainage. The *Flood Risk and Drainage Strategy* submitted with the application indicated that the site has a low flood risk and that surface water would be satisfactorily disposed by means of a sustainable drainage system (SuDS). In order to ensure this operates effectively in the longer terms it is necessary to require details of the management and maintenance of the system. The UU includes a covenant that the Owner or Management Company would be responsible for the SuDS, but it is not unreasonable to require that information be submitted of any adoption arrangements going forward. With these safeguards in place there is no evidence that there would be a flooding risk either on the site or elsewhere as a result of the appeal proposal.
131. A *Travel Plan* was submitted at application stage and its objectives include reducing the need for staff, residents and visitors to travel by car. It also contains targets to increase pedestrian, bus and cycle trips with milestones over a 5 year period. Various measures are included to encourage sustainable travel choices as already discussed above. A Final Travel Plan will be required

to be submitted based on the already submitted document before the site is first occupied.

132. In order to encourage sustainable solutions and comply with the **Government's objective** of moving towards zero emission road transport, the provision of electric charging points is necessary. These would include the three rapid active charging points in the communal parking area. Parking for residents is not assigned and it is understood that the use of the private parking spaces would be subject to a separate agreement. In such circumstances these spaces would be provided with passive provision, which can be activated by a socket as and when required.
133. Means of access is not a reserved matter and the details of this along with the new footway and traffic calming measures are shown on drawing no: 1701-56 SK08 Rev B. In order to ensure the safety of road users and pedestrians it is necessary to require the details to be implemented prior to the occupation of the development. I have reworded the condition to be comprehensive and concise. It is also important that before a dwelling is first occupied it is served by a pedestrian and vehicular access in order to ensure a safe and secure residential environment.
134. External lighting, especially along roadways and within public areas, can be intrusive and detrimental to ecological interests as well as the visual amenity of neighbouring residents. I have amended the wording to make the condition more concise bearing in mind that the approval of the relevant details is within the control of the Council. In order to meet the requirements of the Water Framework Directive and policy DP42 in the MSDP a condition is necessary to restrict water usage to that set out in the optional requirement in Part G of the Building Regulations.
135. Conditions relating to materials and landscaping are unnecessary as these will be considered at reserved matters stage.

#### PLANNING BALANCE AND OVERALL CONCLUSIONS

136. I consider that the development plan is up-to-date and that the basket of most important policies for determining this application are not out-of-date. The development would conflict with policies DP6, DP12, DP15 and DP34 in the MSDP and ALC1 and ALH1 in the ANP and in my judgement it would be contrary to the development plan when taken as a whole. The **"tilted balance"** and the presumption in favour of sustainable development in paragraph 11 of the Framework would therefore not apply.
137. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations determine otherwise. The MSDP was adopted relatively recently and the Framework makes clear that the planning system should be genuinely plan-led. Nevertheless, in this case there are a number of material considerations to be taken into account. The provision of extra care leasehold housing to meet a considerable level of unmet need is of particular importance, but there would also be various other benefits. I have explained why I consider them of pertinence and the reason for the varying degree of weight that I have attributed to them. Overall, I consider that the package of



benefits delivered by this appeal development is a matter of very substantial weight in the planning balance.

138. There would be harm to the landscape and the character and appearance of the area, including the village of Albourne. For the reasons I have given this would be relatively limited and localised.
139. There would be harm to the significance of designated and undesignated heritage assets by virtue of development proposed within their setting. In terms of the listed buildings the less than substantial harm identified in each case would be relatively low on the scale but nevertheless these are irreplaceable assets and the harm should be given considerable importance and weight. Nevertheless, in my judgement the harm would be outweighed by the very substantial public benefits I have identified. Spurk Barn is an undesignated heritage asset and the scale of harm relative to its significance would be low. The balance in that case is also that the benefits would outweigh the harm.
140. Drawing all of these matters together my overall conclusion is that this particular development would result in benefits of such importance that they would outweigh the harm that I have identified and the conflict with the development plan. In such circumstances, material considerations indicate that planning permission should be granted otherwise than in accordance with the development plan.
141. I have taken account of all other matters raised in the representations and in the oral evidence to the inquiry but have found nothing to alter my conclusion that, on the particular circumstances of this case, the appeal should succeed.

*Christina Downes*

INSPECTOR

## ANNEX A: APPEARANCES

### FOR THE APPELLANTS:

Mr Christopher Young	Of <b>Queen's Counsel</b>
Ms Leanne Buckley-Thomson	Of Counsel, both instructed by Ms L Wilford, Barton Willmore
<i>They called:</i>	
Mr G Flintoft BA(Hons) DipTP DipUD MRTPI	Planning Director of Retirement Villages Ltd
Mrs L Wilford BA(Hons) DipTP MRTPI	Planning Associate of Barton Willmore
Mr J Donagh BA(Hons) MCD MIED	Development Economics Director of Barton Willmore
Mr P Clark BA MALscArch CMLI	Landscape Associate of Barton Willmore
Mr J Darrell BSc(Hons) CMILT MCIHT	Associate Director of Transport Planning Associates
Richard Garside MRICS	Director and Head of Newsteer
Mr J Smith BA(Hons) MA PGCE DGDip MCIfA IHBC	Deputy Operational Director of Heritage at RPS
Mr T Kernon BSc(Hons) MRAC MRICS FBIAC	Director of Kernon Countryside Consultants Ltd
*Ms J Burgess LLB Law(Hons)	Solicitor with Aardvark Planning Law

\*Participated in the Planning Obligations session

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Jack Parker	Of Counsel, instructed by Mr T Clark, Solicitor and Head of Regulatory Services, Mid Sussex District Council
<i>He called:</i>	
Mr D McCallum BA(Hons) MPhil MRTPI	Project Director of DPDS Ltd
Mr W Harley BSc(Hons) CMLI	Director of WH Landscape Consultancy Ltd
Mr C Tunnell BSc(Hons) MPhil FRTPI FAcSS FRSA	Director of Arup and Leader of the London Planning Group
Ms E Wade MA MSc	Conservation Officer at Mid Sussex District Council

### FOR THE RULE 6 PARTY:

Ms N Ernest	Councillor of Albourne Parish Council
Mr G Stafford	Chair of Albourne Parish Council
Mr J Butler	Vice Chair of Albourne Parish Council
Mr J Drew	Councillor of Albourne Parish Council

INTERESTED PERSON:

Mr P Holding

Local resident of Church Lane, Albourne

ANNEX B: DOCUMENTS AND PLANS

DOCUMENTS

- 1 Planning for Retirement, ARCO and CNN (June 2020), submitted by Mr Young
- 2 The health and social care cost-benefits of housing for older people, the Mears Group (June 2019), submitted by Mr Young
- 3 Inquiry Note submitted by the Appellants explaining the reason for submitting Documents 1 and 2
- 4 Specialist housing need, alternative assessments, prepared by Mr Donagh
- 5 Tables of supply of specialist housing for older people, prepared by Mr Donagh
- 6 Understanding local demand from older people for housing, care and support, submitted by Mr Young
- 7/1 Committee Report relating to development including an extra care facility at Sayers Common, submitted by Mr Parker
- 7/2 Location plan of the Sayers Common development site submitted by Mr Young
- 7/3 Policy C1 of the Mid Sussex Local Plan (2004), submitted by Mr Parker
- 8/1 **Secretary of State's decision** on development at Wheatley Campus, Oxford Brookes University (APP/Q3115/W/19/3230827) dated 23 April 2020, submitted by Mr Young
- 8/2 **Inspector's Report on the above appeal**, submitted by Mr Young
- 9 Correspondence with Housing LIN concerning the use of the SHOP@ tool, submitted by Mr Young
- 10 Planning Obligation by Agreement between Mid Sussex District Council, West Sussex County Council and Eldon Housing Association Ltd relating to redevelopment for an extra care housing scheme at Lingfield Lodge, East Grinstead
- 11 Decision by the High Court relating to a planning appeal for extra care housing at The Elms, Upper High Street, Thame (31 July 2020), submitted by Mr Young
- 12/1 **Representations on behalf of the Appellants to the Council's** Strategic Housing and Economic Land Availability Assessment, submitted by Mr Young
- 12/2 Correspondence between the Parish Council and the Appellants regarding when the above was submitted
- 13/1 Schedule of draft conditions
- 13/2 Agreement by the Appellants to the pre-commencement conditions
- 13/3 Appellants' suggested additional conditions regarding electric charging and water usage
- 13/4 Appellants' suggested additional condition regarding the communal gardens
- 14/1 Site visit itinerary and map

- 14/2 Suggested viewpoint and map from Wolstonbury Hill, submitted by the Parish Council
- 15 Amendments to Document 4 and the proof of evidence of Mr Donagh, submitted by Mr Young
- 16 Agreed position on the Mid Sussex extra care housing supply, submitted by Mr Young
- 17/1 Costs application by Mr Young on behalf of the Appellants
- 17/2 Costs response by Mr Parker on behalf of the Council
- 18 Correspondence by the Council and Appellants regarding the Use Class of the proposed development
- 19 Planning Obligation by Agreement
- 20 Planning Obligation by Unilateral Undertaking

## PLANS

- A Application plans
- B Sketch Layout Plan

## ANNEX C: SCHEDULE OF PLANNING CONDITIONS

1. Details of the appearance, layout, scale and landscaping of the site (**hereinafter called the "reserved matters"**) shall be submitted to and approved in writing by the local planning authority before any development takes place and development shall be carried out as approved.
2. Application of the approval of reserved matters shall be made to the local planning authority before the expiration of 2 years from the date of this permission.
3. The development hereby permitted shall take place not later than one year from the date of approval of the last of the reserved matters.
4. Any reserved matter applications made pursuant to the development hereby permitted shall demonstrate compliance with the Parameter Plan (drawing no: and RETI150215 PP-01 rev G) and Sketch Layout (drawing no: RETI150215 SKL-04 rev J).
5. No more than 84 extra care dwelling units shall be built on the site.
6. No development shall take place, including any works of demolition, until a Demolition and Construction Management Plan (DCMP) has been submitted to and approved in writing by the local planning authority. The DCMP shall provide plans and details of the following:
  - a. Location of site offices
  - b. Demolition and construction traffic routing
  - c. Location of plant and materials storage
  - d. The area within the site reserved for the loading, unloading and turning of HGVs delivering plant and materials
  - e. The area reserved within the site for parking for site staff and operatives
  - f. Wheel washing facilities

- g. A scheme to minimise dust emissions from the site
- h. Measures to control noise affecting nearby residents. This should be in accordance with *BS5228: 2014 Code of practice for noise and vibration control on construction and open sites*, with particular regard to the noisiest activities such as piling, earthmoving, concreting, vibrational rollers and concrete breaking
- i. A scheme for recycling and disposal of waste resulting from the demolition and construction works
- j. Delivery, demolition and construction working hours
- k. Erection and maintenance of security hoarding, including decorative displays and facilities for public viewing where appropriate
- l. Site contact details

The approved DCMP shall be adhered to throughout the demolition and construction period for the development.

- 7. No development shall take place until an archaeological written scheme of investigation and programme of works has been submitted to and approved in writing by the local planning authority. The investigation and works shall be carried out as approved
- 8. The development shall be carried out in accordance with the mitigation and enhancement measures in the *Ecological Impact Assessment* by Lloyd Bore dated 7 March 2019.
- 9. No residential occupation shall take place until an Ecological Management Plan has been submitted to and approved in writing by the local planning authority. This shall include the arrangements for the maintenance and management of the biodiversity measures carried out in accordance with Condition 8. The development shall be carried out in accordance with approved Ecological Management Plan.
- 10. No development shall take place, including works of demolition, until an Arboricultural Method Statement has been submitted to and approved in writing by the local planning authority. This shall detail protective measures for trees and hedgerows to be retained in accordance with the principles outlined in the *Arboricultural Impact Assessment* and *Arboricultural Report*, both by Lloyd Bore Ltd (26 February 2019 Rev P05 and 22 November 2018 Rev P02, respectively).
- 11. Before the development is first occupied a Landscape Management Plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the local planning authority. The Landscape Management Plan shall be carried out as approved.
- 12. The landscaped grounds of the development hereby permitted shall be provided and managed as communal shared spaces. Notwithstanding the *Town and Country Planning (General Permitted Development) Order 1995* (as amended) or any subsequent Order revoking or re-enacting that order, no fences, gates, walls or other means of enclosure shall be erected for the purpose of creating an enclosed garden or private space for the benefit of any extra care dwelling unit.



13. No development shall take place, other than works of demolition, until details of existing and proposed site levels and proposed ground floor slab levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
14. No development shall take place, including works of demolition, until an assessment of any risks posed by contamination has been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken to remediate the site and render it suitable for the development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and a verification report shall be submitted to and approved in writing by the local planning authority. The assessment and any necessary remediation measures and verification shall be undertaken in accordance with a timescale that has been first submitted to and approved in writing by the local planning authority.
15. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended on the site and additional measures for remediation shall be submitted to and approved in writing by the local planning authority. The remediation shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed. It shall thereafter be approved in writing by the local planning authority and carried out as approved before any further work on the site recommences.
16. Before the development is first occupied details of the foul drainage system for the site shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
17. Before the development is first occupied details of the sustainable drainage system (SuDS) for the site, which shall be in general accordance with the *Flood Risk and Drainage Strategy* by Quad Consult dated May 2017, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
18. Before the development is first occupied details of the implementation of the SuDS approved under condition 17 shall be submitted to and approved in writing by the local planning authority. These details shall include:
  - a. A timetable for implementation;
  - b. A management and maintenance plan for the lifetime of the development;
  - c. Arrangements for adoption by any public body or statutory undertaker or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.

The sustainable drainage system shall be implemented and thereafter managed and maintained in accordance with the approved details.

19. Before the development is first occupied a Final Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Final Travel Plan shall be in accordance with the *Travel Plan* by TPA Consulting, dated March 2019. The development shall be carried out in accordance with the approved Final Travel Plan.
20. Before the development is first occupied, three rapid active electric charging points shall be provided in the communal parking area serving the shop for use by the general public and residents of the development. The electric charging points shall be retained for their intended purpose for the lifetime of the development.
21. No more than 75% of the extra care dwelling units shall be occupied until no less than 84 parking spaces have been equipped for passive vehicle charging, to allow for the integration of future charging points. Once the charging points have been provided, they shall be retained for their intended purpose for the lifetime of the development.
22. Before the development is first occupied:
  - a. The site vehicular access shall be constructed and open to traffic
  - b. The new section of footway along London Road shall be constructed and available for pedestrian use
  - c. The off-site traffic calming scheme shall be completedIn accordance with the general arrangement shown on drawing no: 1701-56 SK08 rev B.
23. Before a dwelling is first occupied the internal access roads and footways serving that dwelling shall have been laid out and constructed in accordance with details that have first been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
24. No above ground development shall take place until details of external lighting, including light intensity, spread and shielding, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
25. The extra care units shall include water efficiency measures in order to meet the optional requirement of Building Regulations part G to limit the water usage of each extra care dwelling unit to 110 litres of water per person per day.

*End of conditions 1-25.*

## Appendix 2

# Stage 1 Site Pro-Forma – All Sites

<b>SHELAA Ref</b>	<b>810</b>	<b>Parish</b>	<b>Worth</b>
<b>Site Location</b>	<b>Woodpeckers, Snow Hill, Crawley Down</b>		
<b>Site uses</b>	<b>Dwellings</b>		
<b>Gross Site Area (ha)</b>	<b>2.4</b>		
<b>Potential Yield</b>	<b>72</b>		
<b>Site History</b>			
<b>Absolute Constraint</b>	<b>Flood Zone 2 or 3</b>	<b>x</b>	
	<b>Site of Special Scientific Interest</b>	<b>x</b>	
<b>Other Constraints</b>	<b>Ancient Woodland</b>	<b>x</b>	
	<b>Area of Outstanding Natural Beauty</b>	<b>x</b>	
	<b>Local Nature Reserve</b>	<b>x</b>	
	<b>Conservation Area</b>	Development would not have a negative impact on Conservation area and/or Area of Townscape Character	
	<b>Scheduled Monument</b>	<b>x</b>	
	<b>Listed Buildings</b>	Development may potentially affect listed building/s - mitigation may be necessary	
	<b>Access</b>	Safe access is not available but potential exists to easily gain access	
<b>Suitable</b>	No known constraints - assessed as Suitable at Stage 1, progress to Stage 2 assessment		
<b>Availability</b>	Site submitted by site proponent to the SHELAA for assessment - considered available		
<b>Achievability</b>	There is a reasonable prospect that site could be developed within the Plan period		
<b>Timescale</b>	Medium-Long Term		

## Appendix 3



Woodpeckers, Copthorne

Vision Document

May 2019





prp-co.uk

- Architecture
- Urban Design
- Masterplanning
- Landscape
- Development Consultancy
- Planning
- Interiors
- Research

PRP Job Reference  
AA5059

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Project Lead  
Anne-Marie Nicholson, Mark Walker

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**Site Address**  
Woodpeckers  
Copthorne  
West Sussex

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3. The Site	6
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5. Care Accommodation Needs	9
6. Understanding the Site and Context	10
7. Design Principles	13
8. Proposals	14
9. Sustainable Development	20
10. Conclusion	21



# 1. Executive Summary

- 1.1.

This Vision Document presents Somerston Development Projects (Somerston) vision to create a high quality new specialist extra care community on land known as Woodpeckers, Snow Hill, near Copthorne. The site is a parcel of land, parts of which have previously been developed, and part which has an extant consent for a 59 bedroom hotel, which lies within a small settlement to the east of the main built-up area of Copthorne.
- 1.2.

Somerston have identified the site’s potential to be redeveloped to provide a new retirement community of approximately 118 apartments and 4 cottages providing Use Class C2 Extra Care accommodation. In addition, a Village Hub with communal facilities for the developments new residents and potentially the existing wider community’s use is being promoted. The new homes will be set within an attractive and well landscaped setting.
- 1.3.

Extra Care accommodation is a form of specialist retirement accommodation where residents benefit from a range of care and support facilities while retaining independence by remaining in a home of their own.
- 1.4.

Somerston have commissioned Caterwood, a Health and Social Care market expert, to undertake an independent Care Needs Assessment to gain an up to date appreciation of the scale of need for extra care accommodation within the District – and specific to the local and market areas of the site. This assessment, which post-dates the Council’s current existing adopted Local Plan database, shows there are shortfalls of 640 and 166 private extra care units within the market (10-mile radius) and localised (3-mile radius) catchment areas (respectively) – and 334 within the Mid-Sussex District Council local authority area. Moreover, based on current and planned provision and without further planned provision within the District these shortfalls are expected to almost double by 2028, within the plan period which runs to 2031.
- 1.5.

Policy DP30 of the Mid Sussex District Plan sets out that if there is an identified shortfall in care accommodation within the District, the Council will give consideration to allocating sites in the forthcoming Site Allocations DPD.
- 1.6.

It is in the context of this compelling quantitative and qualitative need, aligned to the commitment given within the adopted Local Plan, that Somerston have recognised and are promoting the site and its potential.
- 1.7.

The site is suitable, available, and its development is achievable. It would make a significant contribution to addressing the identified shortfall and is capable of delivering a high quality new development. Accordingly, we are seeking the Council’s support for its allocation within the emerging Site Allocations Development Plan Document.



## 2. Introduction

- 2.1. This Vision Document has been prepared to support Somerston's submission of the Land at Woodpeckers, Snow Hill, Copthorne for allocation in the Mid Sussex Site Allocations DPD to provide a new care village comprising approximately 118 apartments and 4 cottages of C2 Extra Care accommodation, together with a Village Hub providing a range of services and facilities.
- 2.2. The site has previously been considered in the Mid Sussex Strategic Housing and Economic Land Availability Assessment April 2018 (Stage 1) where it was considered potentially suitable for housing.
- 2.3. The site has also previously been the subject of formal pre-application enquiries submitted to the Council, with the most recent written response provided by Officers in March 2018.
- 2.4. The purpose of this Vision Document is to set out Somerston's vision to create a high quality new specialist retirement community and to inform ongoing discussions and assessment of the site by Officers at Mid Sussex Council. Somerston are also committed to engaging with the local Ward and Parish Councillors and the local community. It should be noted that the proposals set out here represent 'work in progress' and will continue to be refined and informed by the outcome of further technical work. It is also Somerston's intention to engage with and work with the Council and the local community to refine the development proposals from here on.

- 2.5. Whilst the document can be read in isolation, and provides an overview of the site and its potential, it is supported by a number of initial technical assessments and reports. These include:
- Masterplanning and concept proposals by PRP
  - A Headline Planning Needs Assessment by Carterwood
  - A Highways and Sustainable Access note by Peter Evans Partnership
- 2.6. These reports are summarised within this document and appended to this document.
- 2.7. Somerston is a privately-owned specialist real estate developer and investor. Whilst working in a number of sectors, more recently they have concentrated on a range of elderly persons healthcare facilities and accommodation across the UK. To date they have brought forward a number of healthcare schemes to include care homes (C2 use class), extra care accommodation (C2 use class), retirement living (C3 age restricted) and GP surgeries (D1 use class).





### 3. The Site

- 3.1. The site (comprising Woodpeckers, Courtland Cottage, agricultural land and outbuildings (several in use/benefiting from Class B1 commercial uses) is a parcel of land measuring approximately 2.4ha which is within a small settlement east of the built-up area of Copthorne, and to the north of Crawley Down.
- 3.2. Copthorne is a reasonably large village with a population of approximately 5,000 people located a short way to the east of Crawley. The majority of the village's existing developed area dates from the mid to late 20th Century. A number of services and facilities are located in the village centre around Copthorne Bank, including a village hall, primary school, pharmacy, convenience stores and a pub. Crawley Down is a similarly sized settlement which also contains a range of services including a restaurant.
- 3.3. The village of Crawley Down is approximately 1.2 miles to the south, while Crawley is 5 miles to the west and East Grinstead 4 miles to the east. Much of the site has previously been developed and has historically contained two dwellings, Woodpeckers and Courtland Cottage, along with a number of substantial outbuildings, some of which are in B1 business uses.
- 3.4. Hedging and mature trees currently provide screening along the northern, eastern, and western site boundaries. There are large employment sites associated with vehicle servicing to the immediate east and north east and the Dukes Head Public House to the west. There are a number of residential properties to the north and west. To the south lie agricultural fields and woodland.
- 3.5. The site is currently accessed off the A264 Snow Hill, which is the primary road between Crawley and East Grinstead.





# 4. Planning Policy Background

## National Planning Policy

- 4.1. National planning policy consists of the National Planning Policy Framework (NPPF) 2019 and associated Planning Practice Guidance. At the heart of national policy lies the presumption in favour of sustainable development and its economic, social, and environmental objectives. As set out at Paragraph 11 of the NPPF this means plans should provide for the objectively assessed needs for housing and other uses as a minimum, unless there are clear and robust reasons why this is not possible.
- 4.2. The NPPF states at paragraph 61 that policies should plan for housing for different groups in the community including older people. Paragraph 59 sets out that the needs of groups with specific housing requirements should be addressed through ensuring a sufficient amount and variety of land can come forward.

## Local Planning Policy

- 4.3. The adopted Local Plan for Mid Sussex comprises:
  - District Plan 2018
  - Small Scale Housing Allocations DPD 2008
  - Saved Policies of the Local Plan 2004 (only applies to South Downs National Park)
  - Made Neighbourhood Plans including for Crawley Down
  - The Policies Map
- 4.4. **Policy DP30** of the District Plan seeks to ensure the development of sustainable communities through the provision of a range of housing to meet the needs of different groups within the community. This includes the potential allocation of sites for Use Class C2 accommodation for older people through the forthcoming Site Allocations DPD – in the event a shortfall in provision is identified.

- 4.5. The Crawley Down Neighbourhood Plan, which applies to this site, notes the results of housing surveys conducted during the preparation of the Neighbourhood Plan which identified a high demand and a limited supply of accessible dwellings for older people to downsize to. The Housing Survey from 2014 identified 300 households within the village were looking to remain in the Parish but downsize within the next ten years, with many of these being older households. The survey also identified that a significant proportion of the existing housing stock is under-occupied with over 2,000 unused bedrooms. Provision of smaller units for those looking to downsize would help free up housing for families.

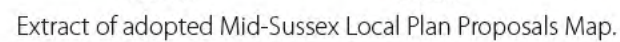
## Emerging Planning Policy

- 4.6. Mid Sussex are in the process of preparing a Site Allocations DPD to ensure the identification of a sufficient supply of development sites up to 2031 (the end of the current plan's period). The stated delivery timetable for the DPD is:
  - Regulation 18 Consultation – Summer 2019
  - Regulation 19 Consultation – Winter 2019/2020
  - Submission – Spring 2020
  - Adoption – Winter 2020
- 4.7. The focus of the DPD is currently expected to be on conventional housing sites. However, in accordance with Policy DP30 of the adopted District Plan, and further to Somerston's discussions with Officers earlier this year, we would encourage the Council to allocate a site(s) for the planned delivery of much needed extra care provision in the District - through the DPD.



Grants Hill Entrance







# 5. Care Accommodation Needs

- 5.1. Somerston have commissioned a Care Needs Assessment prepared by Carterwood. Established in 2008 Carterwood are a specialist consultancy dedicated to the care sector. They have become leading experts at providing advice and analysis on care needs and market demand, working with clients in the public, private, and voluntary sectors.
- 5.2. As set out in the Carterwood Report, Extra Care is a relatively recent form of care accommodation which can include a number of different specific models. However, it specifically involves independent units which have been purposely designed or adapted to meet care and support needs, and where access to care and support is available 24-hours a day.
- 5.3. Extra Care accommodation is generally accepted to fall within Class C2 of the Use Class Order. The reasoning behind this includes the fact that residences are only available to those above a certain age who are in need of a specified level of care, or are in receipt of a package of care services as well as the round-the-clock availability of care and support services. These factors differentiate Extra Care accommodation from uses such as sheltered accommodation where there will normally be only very limited communal facilities, residents may not have specific care needs, and where 24-hour access to care will not normally be provided.
- 5.4. The latest needs assessment from the Council's evidence base is set out in the Housing and Economic Needs Assessment (HEDNA) Addendum 2016. This indicated a significant immediate shortfall in Extra Care accommodation and future shortfall anticipated up to 2031. The HEDNA figures presented a need of 120 Extra Care Units, rising to 345 by 2031 within the District.

- 5.5. The Carterwood Report makes a more detailed analysis of the need and supply of Extra care accommodation in the area, using more recent available data and evidence. This report identifies a shortfall of between 640-860 Extra Care beds within a 10-mile catchment as of 2018, depending on whether all planned or only planned units which are highly likely to come forward are included. Within the local authority area as a whole, the report identifies a shortfall of 334-468 beds. By 2028 the need within 10 miles is anticipated to rise by up to 1,244 beds, or 581 beds within the local authority area, if no further supply is planned. The provision of a high quality Extra Care village on this site would make a significant contribution to meeting the current and future unmet needs within the District.
- 5.6. Extra care accommodation can be provided in a number of forms, including a care village as being proposed for this site. This form of developments has the benefit of being of a scale to include a Village Hub, which would provide a wide range of care and support facilities for residents. This would not be achievable on a smaller site or collection of sites.
- 5.7. As well as providing specialist accommodation, dedicated Extra Care provision will free up often under-occupied market housing in the local area for families, as acknowledged by the supporting text to Policy DP30 of the District Plan.





# 6. Understanding the Site and Context

## Facilities

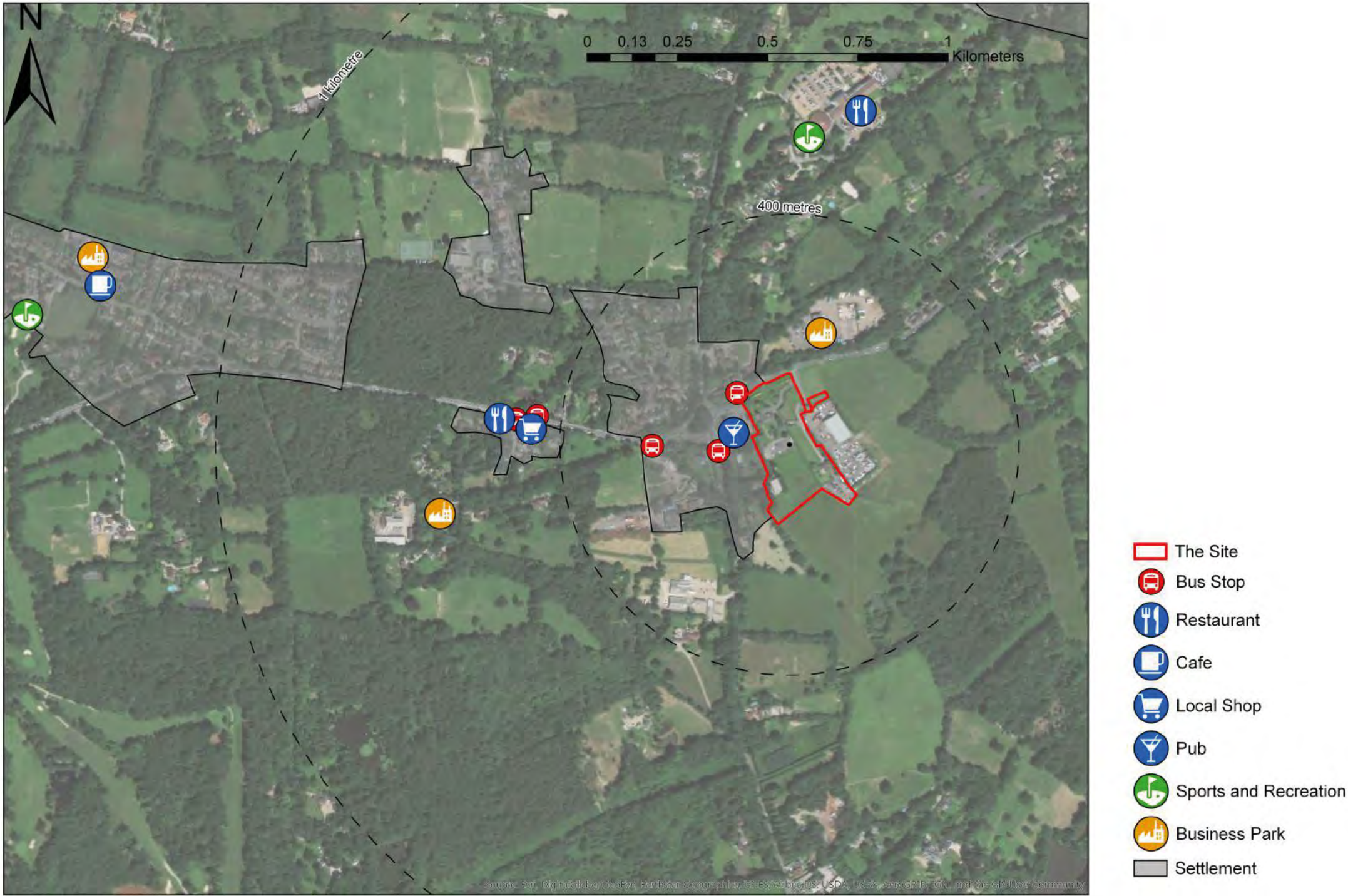
- 6.1. There is a range of services and facilities close to the site. It is important to note that in addition to existing facilities, the proposed Village Hub would likely include a range of everyday services including restaurant/bistro facilities, hairdressers, residents lounge, wellness suites along with medical facilities for the new, and potentially the existing community's use. The development will also likely include a dedicated minibus service to provide regular transport to nearby shops, for day trips along with other places of interest.
- 6.2. Existing local facilities include:

Facility	Approximate distance from site*
Dukes Head pub and restaurant	Less than 100m
Bus stops	50-200m
Copthorne Chapel	300m
Convenience Store	400m
Effingham Park Golf Course	400m
Haskins Garden Centre	900m
Copthorne village centre	2km

\*(Distances measured as the crow flies)

- 6.3. In addition to the proposed minibus service, the site benefits from good transport links with a number of bus stops within a 5-minute walk of the site. These provide regular services with between 2-3 buses an hour to Crawley and East Grinstead. Whereupon access to hourly services onward to Tonbridge and Brighton can be accessed.
- 6.4. The site also benefits from good road links with the A264 providing easy access to Crawley and East Grinstead as well as the wider road network via the M23. Crawley provides mainline rail services.

## Facilities Plan





Site Appraisal – constraints and opportunities





## Highways

- 6.5. The Peter Evans Partnership (PEP) have been commissioned to provide a high level opinion on the site's transport sustainability context.
- 6.6. The proposed extra care village will be accessed via the existing access road from Snow Hill (A264).
- 6.7. There are a number of bus stops within 200m of the site with at least twice hourly services to Crawley (three to four buses per hour) and East Grinstead (two to three buses per hour), as well as less frequent services to Tunbridge Wells and Brighton (one bus every one and two hours respectively). As such the site offers the potentials for sustainable transport options for both residents and staff.



- 6.8. Pedestrian walking facilities along footways or footpaths are provided on at least one side of the local roads. This includes adjacent to the local bus stops. On Snow Hill a footway is provided on the northern side of the carriageway from Duke's Head roundabout with a short section provided on the south side from the roundabout only adjacent to the Duke's Head frontage. There is the opportunity through development of the site to provide a pedestrian link between the site and the existing footpaths on the south side of Snow Hill. This linkage provides a connection between the site and the local bus stops for staff and visitors that use the bus services to travel to and from the care village.

- 6.9. Care Villages are different to conventional housing with a lower need to travel compared to the need to commute and take children to school, which is typical with conventional housing. The Village Hub would also mean many day-to-day needs could be met on-site. The greater level of independence enjoyed by residents means staffing levels are normally lower than would be expected for a care home of an equivalent capacity.
- 6.10. TRICS analysis of the traffic generation of a retirement development, as being proposed by Somerston for the site, shows the number of AM and PM peak hour movements would be 16% and 51% lower (respectively) than that for the previously consented hotel redevelopment on the site (generating 27 two-way movements in the AM peak and 17 two-way movements in the PM peak). This level of trip generation would not have a substantial adverse impact upon the existing highway network.



Looking South West from Snow Hill

- 6.11. Accommodation of adequate parking provision for residents, staff, and visitors within the site can be achieved – in accordance with applicable standards in place at the time of determination of a future planning application. This has previously been demonstrated through the submitted pre-application enquires submitted to the Council.
- 6.12. In summary PEP concluded that given the availability of bus services and provision of bus stops near the site, the existing footways and footpaths and the proposed improvement to pedestrian links from the site, they view the site as being in an accessible location with a range of sustainable travel options available.

In terms of traffic, the comparison with the permitted 59 bed hotel confirms that there would be a net reduction in traffic in the peak hours with the development of the proposed extra care village to the benefit of the local conditions.

## Ecology

- 6.13. The site is not subject to or in close proximity to any designated wildlife site, with the nearest designated site being Hedgecourt SSSI approximately 1.5km away. The majority of the site is formed of developed areas and maintained grassland and is not likely to be of particular ecological value. An Extended Phase 1 Ecological Survey of the site together with any appropriate follow-up surveys will be carried out in due course.



## Flood Risk & Drainage

- 6.14. Environment Agency online mapping shows the site is fully within Flood Zone 1 where there is a low risk of fluvial flooding.
- 6.15. Parts of the site are at low-to-medium risk of surface water flooding. Any proposals would incorporate a Sustainable Urban Drainage system (SUDs) to effectively mitigate the risk of surface water flooding to the development and ensure there is no increase in flood risk elsewhere.



## Ground Conditions

- 6.16. There are no obvious surface indications that the site may be affected by adverse ground conditions.
- 6.17. Given the previous uses on the site, the overall risk of contamination is considered to be low/moderate. Contamination is not likely to significantly affect redevelopment of the site.

## Trees

- 6.18. The majority of the site is clear from any existing tree coverage. There are a few isolated trees within the northern area of the site and there are a number of hedges within the site and along the shared site boundaries to the west and east.
- 6.19. Redevelopment of the site provides an opportunity to incorporate high quality strategic and internal landscaping from the very outset of the scheme proposals being developed. It is not anticipated that existing trees or landscaping within the site represents a constraint to development potential.

## Summary

- 6.20. The site has, to date, been subject to a number of key initial technical assessments which have informed the understanding of its development potential – in general planning terms. The conclusion of the current analysis confirms no significant constraints would preclude the delivery of an Extra Care Village on the site.



## 7. Design Principles

### Summary of Design Approach

The design principles have been developed through our understanding of the site, and in response to comments received through earlier pre-application meetings, with the most recent being in December 2015.

A summary of the principle design attributes and revisions is listed below:

- Removing the more 'institutional' care home from the proposed scheme.
  - Reducing the overall building footprint and site area when compared to December 2015 Pre-App scheme.
  - Revising the layout to create a looser geometry. Conceptually this references the arrangement of barns, farmyard and agricultural buildings and seeks to avoid an overly formal or sub-urban quality to the scheme.
  - Reducing the extent of internal roads and hard standing, combined with the use of car barns and screen planting and a greater separation of the parking areas from the proposed accommodation. The intention is to significantly reduce the impact of vehicles within the site.
  - Ensuring that the landscaped edge further extends into the site from the south through the creation of a 'meadow' at the southern end of the site and extending this landscaping through to a shared central green space located at the heart of the scheme. A further community 'green' is located towards the northern end of the site and provides an open space on arrival into the site. Additional gardens and green spaces are located through the site.
  - Retaining views through the site and allowing these views to extend to the green boundaries and the countryside.
  - Providing a community hub within the centre of the site to provide a vibrant heart to the scheme.
  - Introducing a pedestrian link through to the Dukes Head Public House to the west of the site and a connection to the existing footpath to the North West corner of the site subject to final agreement with the Dukes Head.
  - Restricting building heights on southern edge of the site to 1.5 storeys, with a gradual transition to 3 storeys in the central part of the site.
- Providing a more positive frontage to Snow Hill, ensuring that the scheme responds to its surroundings and is not inward looking. The northern boundary will have an 'open' character combining active pedestrian routes, primary elevations, balconies and colour and movement within the landscape design. The arrangement of the proposed barns and cottages will allow visual links through to the heart of the scheme.
  - Overall the intention is to deliver an exemplar extra care village making use of high quality materials. The apartments are generously proportioned and provide high quality aspirational housing choices for older people. The proposed architectural approach will reference 'Sussex Barns' and combine high quality traditional materials with contemporary detailing.

There is an opportunity to deliver a sensitive scheme design that would not have a significant impact on the countryside setting nor significantly compromise the Council's objectives in respect of coalescence. Whilst the proposal will clearly have an increased footprint and floor space compared to existing, the buildings will be more appropriate to their setting. As shown in the design brochure, the clusters of accommodation have been placed within generous landscaped grounds with clear lines of site throughout so as to avoid having an unnecessarily urbanising impact.

As a result, it is considered that the layout is relatively open in nature and does not detract from the character of the site (having regard to existing and approved developments). Within this context the fundamental integrity of the wider strategic gap itself would not be compromised.





# 8. Proposals

## Illustrative Concept Layout Option

8.1. High level analysis of the site constraints and opportunities and the site's surrounding character and context has informed the production of Somerston's current Concept Masterplan.



### Uses Diagram

A community HUB can be located centrally within the site providing an animated community facility that will create a vibrant heart to the development. There is a pedestrian link through to the Dukes Head Public House to the west of the site and a connection to the existing footpath to the North West corner of the site. The extra care accommodation can be located in clusters of 'barns' planned loosely around the site. Extra care cottages can be located towards the southwest corner.



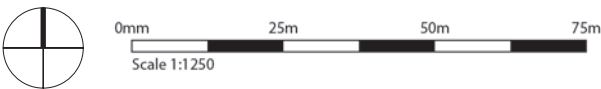


Heights Plan

The proposed heights across the site range from single storey to 3 storey; the higher buildings are located at the northern edge and within the centre of the site. The massing reduces towards the southern boundary where the site meets the landscape edge. Heights are also reduced to the eastern and western edges of the site reducing the visual impact from these vistas.

Key

- 3 Storey
- 2.5 Storey
- 2 Storey
- 1.5 Storey
- 1 Storey





## Massing Study

This massing study illustrates the well-articulated and broken up nature of the proposals. The massing and configuration of buildings create a loose, informal arrangement and allows for routes and visual connections between buildings. The massing and footprint decreases towards the southern end of the site where the landscape extends into the site and views extend outwards.





Routes and Connections

The site will include extensive pedestrian routes through garden spaces and beautiful landscaped areas. The permeable arrangement will allow for good levels of connectivity between buildings across the site. The site will be connected to the 'public realm' in the north west corner with access to the Dukes Head and Snow Hill.

Key

— Connection to Public Realm

— Site Pedestrian Routes





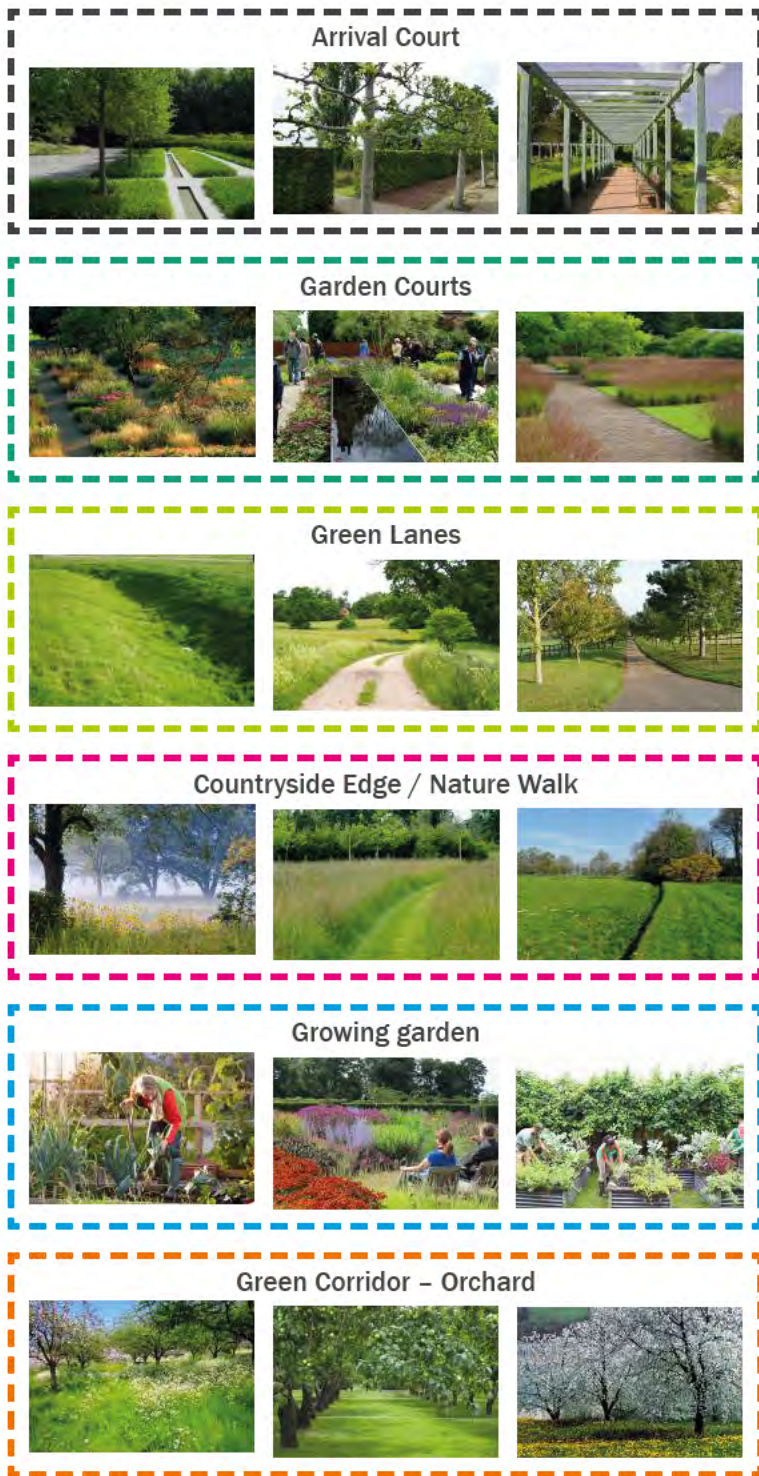
## Landscape Strategy

### Key design opportunities

- Create a landscape setting for the new development which respects the local environment and extends the character of the surrounding countryside into the scheme
- Retain and strengthen the existing mature boundary vegetation in order to channel views from the new development into the countryside whilst screening sensitive views from adjacent properties, highways and public rights of way
- Introduce new large scale tree planting to the northern boundary with Snow Hill with tall grassland strips on shallow bunds to 'animate' the site frontage with their sound, movement and seasonal colour
- Introduce informal green lanes through the scheme which are visually sympathetic to the rural character of the area
- Employ a simple palette of surface materials and boundary treatments which establishes a visual connection with the new buildings and respects the local vernacular and rural setting
- Establish a generous open space and green corridor at the centre of the site to aid orientation, further reinforce connections to the countryside and promote an active outdoor environment
- Explore the potential for introduction of a fully sustainable surface water drainage strategy incorporating grassed swales, detention basins, permanent ponds, rain gardens and permeable pavements
- Create a new footpath network that connects to the public highways footpath network at the north-west corner of the site and provides for general recreation and pet walking
- Introduce indigenous planting to the woodland and hedgerow boundaries, introduce wetland meadow and wildflower swathes which enhance the ecological value of the area and create habitat for wildlife
- Create parking areas which are visually discrete and feel integrated with the landscape by introducing a sequence of car barns, planted pergolas and native tree and hedge planting for screening and enclosure
- Establish beautiful active garden spaces that contribute to the wellness and wellbeing of residents.









## 9. Sustainable Development

- 9.1. While outside a defined settlement boundary, the site is surrounded by development on three sides. Much of the site has previously been developed and it contains existing dwellings together with a number of other buildings, some of which are permitted for B1 Business use along with the extant consent for a 59 bedroom hotel and associated parking. The NPPF sets out that policies and decisions should make efficient use of previously developed land.
- 9.2. As discussed in this document, needs and impacts of care development in relation to sustainability differ from conventional housing with the level of trip generation from an Extra Care development expected to be significantly below that for conventional housing as residents are unlikely to need to commute or take children to school. The high levels of independence for residents also mean staffing levels will be lower than an equivalent care home, and so the numbers of staff needing to travel to the site will be lower.
- 9.3. For staff commuting to the site, and residents wishing to travel, as well as good road links, there are four bus stops within 200m of the site, providing frequent services to Crawley and East Grinstead.
- 9.4. The Extra Care village is proposed to largely be a self-contained community, with a Village Hub providing a range of services expected to include a village shop, restaurant, hairdressers, activity rooms, and medical facilities. As well as providing for many of the everyday needs of residents, the development will also generate approximately 20 FTE jobs for local people. Scope for use of the Village Hub by existing members of the community is also being considered.
- 9.5. As well as the Village Hub there are a number of existing services and facilities nearby. The Dukes Head Public House and restaurant is immediately adjacent to the site. A convenience store and takeaway restaurant are both 400m to the west.
- 9.6. There is the opportunity to help improve pedestrian and cycle linkages in the local area through the redevelopment of the site.
- 9.7. In summary, key sustainability features that can be delivered by the site include:
- Emphasis on high quality design to achieve an attractive extra care village development
  - Ensuring the new buildings are resource efficient and can respond to the threat of climate change by minimising energy, carbon and water use
  - Taking a sensitive and considered approach to the relationship between the new development and the undeveloped wider landscape to the south
  - An effective drainage strategy that would avoid or mitigate flood risk and emphasises attractive SUDS measures, which can integrate and form a landscaped part of the on-site public realm if needed.
  - Delivering biodiversity improvements through retention and enhancement of higher ecological value areas and delivering an appropriate new and comprehensive landscaping scheme across the site.



# 10. Conclusion

- 10.1.

This Vision Document sets out Somerstons vision for the site and demonstrates the compelling development opportunity the site provides in response to the significant unmet need for extra care accommodation within the local area, market area and across the District.
- 10.2.

Much of the site has previously been developed and redevelopment to provide a 59-bedroom hotel on the site has previously been approved. There are no overriding constraints which are likely to prevent the site's development, with the initial technical studies undertaken to date confirming it deliverability. The development option presented by this document would provide:

• A new Extra Care village community

• Approximately 118 apartments and 4 cottages of Use Class C2 accommodation

• A community Village Hub providing a range of convenience services and facilities

• High quality designed buildings set within a strongly landscaped setting

• Tree planting, ecological improvements and on-site biodiversity net gains
- 10.3.

While outside of a defined settlement boundary the site is bounded by development on three of its four sides and redevelopment can be sensitively achieved to ensure a transition to the wider landscape is created.
- 10.4.

The site would provide a largely self-contained extra care village with a range of everyday facilities and services provided. There are excellent bus links to the nearby town of Crawley and East Grinstead, as well as a number of other services close to the site. In transport terms the site is a suitable and sustainable location for an Extra Care development.
- 10.5.

Somerston are a specialist investor and developer with experience in developing healthcare and accommodation for older people. They will work with their operational partner to deliver the development and see there being no significant impediments to the site's delivery beyond the current adopted Development Plan policies.
- 10.6.

The site provides the opportunity to deliver a high quality development which positively responds to the character of the local area. One which is specifically designed to meet the objectively identified immediate and longer term unmet needs of older residents within the District, market and local area.
- 10.7.

Somerston are experienced in bringing sites forward for development and no impediments to the delivery of this site have been identified. The site is suitable, available, and viable and should therefore be considered deliverable under the terms of the NPPF.
- 10.8.

Somerston are committed to working with the Council, local community and other key stakeholders to refine their proposals through the local plan process.



## Illustrative Sketch Studies



Central Garden Court





Shared surface routes and lanes



**Contact:**

Stuart Crickett

[Stuart.crickett@struttandparker.com](mailto:Stuart.crickett@struttandparker.com)

Strutt & Parker

Somerset House

222 High Street

Guildford

Surrey

GU1 3JD

## Site Allocations DPD: Regulation 19 Consultation Response

**Policy:** SA11

**ID:** 791

**Response Ref:** Reg19/791/5

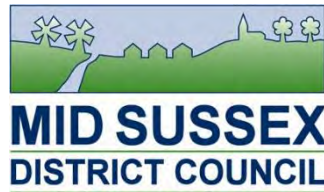
**Respondent:** Ms J Ashton

**Organisation:** Judith Ashton Associates

**On Behalf Of:** Wates - West Crawley Down

**Category:** Developer

**Appear at Examination?** ✓



## **Site Allocations Development Plan Document Regulation 19 Submission Draft Consultation Form**

The District Council is seeking representations on the Submission Draft Site Allocations Development Plan Document, which supports the strategic framework for development in Mid Sussex until 2031.

The Site Allocations DPD, has four main aims, which are:

- i) to allocate sufficient housing sites to address the residual necessary to meet the identified housing requirement for the district up to 2031 in accordance with the Spatial Strategy set out in the District Plan;
- ii) to allocate sufficient employment land to meet the residual need and in line with policy requirements set out in District Plan Policy DP1: Sustainable Economic Development;
- iii) to allocate a site for a Science and Technology Park west of Burgess Hill in line with policy requirements set out in District Plan Policy DP1: Sustainable Economic Development, and
- iv) to set out additional Strategic Policies necessary to deliver sustainable development.

All comments submitted will be considered by a Planning Inspector, appointed by the Secretary of State, at a public examination to determine whether the plan is sound.

The Site Allocations DPD is available to view at:

[www.midsussex.gov.uk/planning-building/development-plan-documents/](http://www.midsussex.gov.uk/planning-building/development-plan-documents/)

A number of documents have been prepared to provide evidence for the Site Allocations DPD and these can be viewed on the Council's website at the above address.

Paper copies will also be at the Council offices (see address below) and your local library and available to view if the buildings are able to open during the consultation period.

**Please return to Mid Sussex District Council by midnight on 28<sup>th</sup> September 2020**

### **How can I respond to this consultation?**

**Online:** A secure e-form is available online at:

[www.midsussex.gov.uk/planning-building/development-plan-documents/](http://www.midsussex.gov.uk/planning-building/development-plan-documents/)

The online form has been prepared following the guidelines and standard model form provided by the Planning Inspectorate. To enable the consultation responses to be processed efficiently, it would be helpful to submit a response using the online form, however, it is not necessary to do so. Consultation responses can also be submitted by:

**Post:** Mid Sussex District Council  
Planning Policy  
Oaklands Road  
Haywards Heath  
West Sussex  
RH16 1SS

**E-mail:** [LDFconsultation@midsussex.gov.uk](mailto:LDFconsultation@midsussex.gov.uk)

A guidance note accompanies this form and can be used to help fill this form in.





## Part A – Your Details (You only need to complete this once)

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### 1. Personal Details

Title	<input type="text" value="Miss"/>
First Name	<input type="text" value="Judith"/>
Last Name	<input type="text" value="Ashton"/>
Job Title (where relevant)	<input type="text" value="Director"/>
Organisation (where relevant)	<input type="text" value="Judith Ashton Associates"/>
Respondent Ref. No. (if known)	<input type="text"/>
On behalf of (where relevant)	<input type="text" value="Wates Developments Limited"/>
Address Line 1	<input type="text" value="Maytham Farmhouse"/>
Line 2	<input type="text" value="Maytham Road"/>
Line 3	<input type="text" value="Rolvenden Layne"/>
Line 4	<input type="text" value="Cranbrook Kent"/>
Post Code	<input type="text" value="TN17 4QA"/>
Telephone Number	<input type="text" value="01580 230900"/>
E-mail Address	<input type="text" value="judith@judithashton.co.uk"/>



Information will only be used by Mid Sussex District Council and its employees in accordance with the Data Protection Act 1998. Mid Sussex District Council will not supply information to any other organisation or individual except to the extent permitted by the Data Protection Act and which is required or permitted by law in carrying out any of its proper functions.

The information gathered from this form will only be used for the purposes described and any personal details given will not be used for any other purpose.

## Part B – Your Comments

You can find an explanation of the terms used in the guidance note. Please fill this part of the form out for each representation you make.

Name or Organisation: **Wates Developments Limited**

### 3a. Does your comment relate to:

Site Allocations DPD	<input checked="" type="checkbox"/>	Sustainability Appraisal	<input type="checkbox"/>	Habitats Regulations Assessment	<input type="checkbox"/>
Community Involvement Plan	<input type="checkbox"/>	Equalities Impact Assessment	<input type="checkbox"/>	Draft Policies Maps	<input type="checkbox"/>

### 3b. To which part does this representation relate?

Paragraph	<input type="text"/>	Policy SA	<b>10 and 11</b>	Draft Policies Map	<input type="text"/>
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### 4. Do you consider the Site Allocations DPD is:

4a. In accordance with legal and procedural requirements; including the duty to cooperate. Yes ☐ No ☐

4b. Sound Yes ☐ No ☒

### 5. With regard to each test, do you consider the Plan to be sound or unsound:

	Sound	Unsound
(1) Positively prepared	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) Justified	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) Effective	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) Consistent with national policy	<input type="checkbox"/>	<input checked="" type="checkbox"/>



**6a.** If you wish to support the legal compliance or soundness of the Plan, please use this box to set out your comments. If you selected '**No**' to either part of question **4** please also complete question **6b**.

**Please see covering letter**

**6b.** Please give details of why you consider the Site Allocations DPD is not legally compliant or is unsound. Please be as precise as possible.

**Please see covering letter**

**7.** Please set out what change(s) you consider necessary to make the Site Allocations DPD legally compliant or sound, having regard to the reason you have identified at question 5 above where this relates to soundness.

You will need to say why this change will make the Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

**Please see covering letter**

**Please note** your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested change, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage.

**After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.**

8. If your representation is seeking a change, do you consider it necessary to attend and give evidence at the hearing part of the examination? (tick below as appropriate)

☐

**No**, I do not wish to participate at the oral examination

☒

**Yes**, I wish to participate at the oral examination

9. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

Wates have significant interests in the District and are keen to see ensure the soundness of the Local Plan. They therefore wish me to participate in the examination

**Please note** the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

**10. Please notify me when:**

(i) The Plan has been submitted for Examination

☒

(ii) The publication of the recommendations from the Examination

☒

(iii) The Site Allocations DPD is adopted

☒

Signature:

Date:

28.09.2020

**Thank you for taking time to respond to this consultation**



Monday 28<sup>th</sup> September 2020  
595/A3/JJA

Planning Policy and Economic Development  
Mid Sussex District Council  
Oakland  
Oaklands Road  
Haywards Heath  
West Sussex  
RH16 1SS

**By Email Only**

Dear Sirs

**Re MSDC Reg 19 Consultation Draft Site Allocations Development Plan Document (July 2020)  
Representations on behalf of Wates Developments Limited**

I write with reference to the above. I act for Wates Developments Limited who have various interests in Mid Sussex, including the land west of Turners Hill Road, Crawley Down (SHELAA site ref 688 and 1002).

As you will be aware, we made reps on the Reg 18 Site Allocations DPD in Nov 2019, in particular policies SA10 and SA11, commenting upon the level of development being promoted within the Site Allocations DPD, the distribution of development, especially within the Category 2 settlements like Crawley Down, and the site selection process. We also commented upon the reasonable alternatives assessed through the SA and the site selection process as set out in the Site Selection Papers.

In the context of the above, you will be aware, that we have been promoting the land west of Turners Hill Road, Crawley Down for some time and have successfully negotiated 2 local consents and 1 appeal thereby establishing the suitability of this location for development. Latterly, whilst promoting the totality of the land west of Turners Hill Road, Crawley Down for circa 300 dwellings and associated facilities, we have also highlighted the sites ability to be bought forward on a gradual basis, but subject to an overarching masterplan. We acknowledge the Council's intention to allocate a site for 50 units in Crawley Down, and that site 1002 would satisfy this requirement, being served via an access wholly within our control and with support from WSCC highways.

It is against this backdrop, and having regard to the substance of the adopted local plan, especially policies DP4 and DP6, that we comment upon the Reg 19 Consultation Draft Site Allocations DPD (hereafter referred to as the Reg 19 Plan), especially policies SA10 and SA11, its associated Sustainability Appraisal (SA) and Site Selection Paper 3 (SSP3).

1 Policies SA10 and SA11

1.1 Policy DP4 of the adopted Local Plan sets out the housing requirement for the plan period and the component parts of the supply. It also establishes a spatial distribution strategy to meet the housing requirement.

a) The Housing Requirement

1.2 Policy SA10 of the Reg 19 Plan looks to update the requirements set out in policy DP4 as far as they relate to the housing supply in table 2.3. We have set out in tabular form below how the two compare. As is self-evident the level of development now proposed through the Reg



19 DPD is significantly less (27.68% less to be precise<sup>1</sup>) than that envisaged in the adopted plan given completions and consents granted since the Local Plan was adopted in March 2018.

JAA table 1 – How policy SA10 has evolved through the plan process and compares to the policy DP4 of the adopted Development Plan

	Adopted LP - Policy DP4	Site Allocations DPD - Policy SA10 – Reg 18	Site Allocations DPD - Policy SA10 – Reg 19
District Plan Minimum Requirement	16,390	16,390	16,390
Completions	2,410 April 2014 to March 2017	3,914 April 2014 to March 2019	4,917 April 2014 to March 2020
Total Housing Commitments <sup>2</sup>	7,091	7,094	9,689
Strategic development north & north-west of Burgess Hill	3,500	3,287	Now in commitments
Land north of Clayton Mills, Hassocks	500	Now in commitments	Now in commitments
Windfall Allowance	450	588	504
Elsewhere in the District, as allocated through future Neighbourhood Plans & the Site Allocations document	2,439	1,962	1,764
Total supply	16,390	16,845 (+455) 102.78% of requirement	16,874 (+484) 102.95% of requirement

- 1.3 Whilst MSDC we acknowledge that the figure is a residual figure and takes in to account completions and commitments there is nothing in the evidence base to demonstrate how the residual figure relates back to the minimum requirement set out in policy DP4 of the adopted Development Plan, or how the figures have been broken down into the component parts.
- 1.4 We also note that the actual 'Updated Minimum Residual Requirement' identified in table 2.4 of policy SA10, does not, at 1,280 reflect the target set out in the table 2.3 in policy SA10 (1,764); and that the associated commentary on the overall housing requirement in section 2.3 of SSP3 (February 2020) contradicts table 2.3 in policy SA10<sup>3</sup>, such that clarification needs to be provided as to what the correct residual requirement is. Reading between the lines, it would appear that the Minimum Residual Requirement is 1,280, but that 1,764 is being allocated to provide some flexibility<sup>4</sup>. For the reasons set out below we do not believe, that at just 3% above the minimum requirement, this is sufficient in this regard.<sup>5</sup>
- 1.5 Para 11a of the NPPF is clear in the need for local planning authorities to '*positively seek opportunities to meet the development needs of their area*' and to '*be sufficiently flexible to adapt to rapid change*'. Para 16 (b) of the NPPF is also clear in that '*Plans should be prepared positively, in a way that is aspirational but deliverable*'; whilst para 35a makes it clear that:

<sup>1</sup> 2439-1764 = 675. 675 / 2439 = 27.68%

<sup>2</sup> Including sites with planning permission, strategic development at Kings Way, Burgess Hill (DP8) and Pease Pottage (DP10) and allocations in made Neighbourhood Plans

<sup>3</sup> The SSP3 suggests that the residual housing requirement is 1,507 dwellings – which is more aligned with the Reg 18 than the reg 19 plan

<sup>4</sup> 16,874 – 16,390 = 484

1280 + 484 = 1764

<sup>5</sup> 1764-1280 = 484

484/16390 x 100 = 2.95%

*'Plans are 'sound' if they are: a) Positively prepared – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs.'* The lack of flexibility in MSDC's housing supply leads us to question whether the Reg 19 Plan complies with national policy.

- 1.6 The housing requirement set out in policy DP4 of the adopted Development Plan was not a maximum figure – it was a minimum – para 2 of the reasoned justification to policy DP4 (p29) is clear in this regard, as is policy DP4 itself. Furthermore, the Local Plan inspector in his report at para 29 and MM04 makes this point. He also indicated that: *'as the overall requirement is expressed as a minimum there is scope for delivery to exceed the minimum requirement'*.
- 1.7 Notwithstanding the above, the Reg 19 Plan, SA, and associated HRA do not test the effects of delivering a higher housing requirement than the minimum advocated in policy DP4 of the adopted development plan
- 1.8 Given the above, and as MSDC have a history of under delivery<sup>6</sup>, failure to assess the merits of allocating more housing through the Reg 19 Plan suggests to us a plan that is not positively prepared, and thus contrary to national government guidance. In this regard, we consider that MSDC could, if they wanted to, allocate more as it is clear from the SHELLA that a considerable number of sites were put forward, and that many, for reasons set out in section 3 below, were discounted for questionable reasons. A higher number of allocations would help protect the council against any failure to meet the adopted development plan target and help with their 5yr housing land supply.
- 1.9 In the context of the above, it should be noted that whilst the development plan was adopted in March 2018, and is thus still relatively new, the next iteration of the plan will have to make provision for the housing requirement as set out in the Standard Method. Whether this is the current or emerging method, the fact is, as set out in table 2 below, the difference between that required in Mid Sussex now and that required under the standard method is significant and will have immediate implications come March 2023.
- 1.10 Given the lead in time for a LP Review and the fact MSDC have the opportunity now, within the Reg 19 Plan to review their housing provision and protect themselves against speculative development in the future, it is in our opinion foolhardy for the Reg 19 Plan not to assess the merits of delivering more houses to address future needs. The failure of the SA and associated HRA to even contemplate this possibility demonstrates a plan that is not positively prepared and is thus unsound.

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<sup>6</sup> Para 4.3 of the Mid Sussex Housing Delivery Statement (July 2019) is clear in its acceptance of MSDC's failure to meet its housing requirement in 4 of the past 5 yrs.

	2014/2015	2015/2016	2016/2017	2017/2018	2018/2019	Total
<b>Requirement</b>	876	876	876	876	876	4380
<b>Completions</b>	630	868	912	843	661	3914
<b>Shortfall</b>	-246	-8	+36	-33	-215	-466

JAA table 2 – How the current housing requirement compares to that of the standard methodology

	Current LP requirement	Average delivery – past 3 years	Current standard method	Proposed standard method
MSDC	964 <sup>7</sup>	760	1,114	1,305

- 1.11 It is also noteworthy that MSDC do not have an up to date annual monitoring report, or anything to demonstrate their 5-year HLS position. Whilst the last Housing Delivery Test showed the council to be delivering 95% of the requirement (see extract in table 3 below), housing delivery has over the past few years been erratic and the council's failure to publish anything leads one to wonder why. The Reg 19 Plan provides an ideal opportunity to address this issue. The allocation of small sites will assist in early delivery and help counter any speculative development in the future. Surely it is better to plan for more and ensure the associated infrastructure requirements are addressed than just hope the situation will sort itself out – residents and developers need clarity so they can plan accordingly.

JAA table 3 - Result of 2019 Housing Delivery Test

Area	Number of homes required			Total number of homes required	Number of homes delivered			Total number of homes delivered	Housing Delivery Test: 2019 measurement	Housing Delivery Test: 2019 consequence
	2016-17	2017-18	2018-19		2016-17	2017-18	2018-19			
Mid Sussex	754	812	877	2,444	1,068	614	651	2,333	95%	None

- 1.12 Given the above we would suggest that policy SA10 looks to allocate more sites, so as to deliver more than the 16,874 dwellings now proposed. Increasing the supply to circa 17,664 would take the plan half-way to delivering a position between the adopted plan and that set out in the current standard methodology<sup>8</sup>, and should in our opinion be tested given the fact there are amply sites promoted through the SHELAA to accommodate this figure.

b) The Housing Supply

- 1.13 As set out above, the total supply as set out in table 2.3 of policy SA10 is, at 16,874 dwellings, only 3% above the minimum requirement. This leaves very little flexibility to address any delays in sites coming forward or a reduced level of development being achieved on the strategic sites during the plan period.

i) Strategic Allocations

- 1.14 Whilst we note Homes England's involvement in the land at North Burgess Hill, and that outline consent was granted for a, mixed-use development comprising approximately 3,040 dwellings including 60 units of extra care accommodation etc in October 2019 (DM/18/5114 refers), whilst the Housing Land Supply Paper (Aug 2020) that accompanies the Reg 19 consultation provides no clear trajectory for the land North of Burgess Hill, the Housing Land Supply Position statement of July 2019 suggests on page 18 that this site will deliver 80 units in 2021/22, which, given the fact major infrastructure works associated with this development have yet to be consented<sup>9</sup> we would suggest that MSDC's housing trajectory for this site is

<sup>7</sup> 964 is an average over the plan period – 2014 – 2031 (16390 / 17 = 964)

The plan itself being such the requirement is 876dpa until 2023/24 and 1090 from 2024/25 – 2030/31.

<sup>8</sup> 1,114x17 = 18,938 – 16,390 = 2,548 / 2 = 1274 + 16,390 = 17,664

<sup>9</sup> DM/20/0254 provides for the first phase of the Western Link Road



overly optimistic. If this commitment does not deliver as planned MSDC will be vulnerable to speculative applications. The Site Allocations DPD provides an ideal opportunity to protect against this by way of additional allocations.

ii) Proposed Site Allocations

- 1.15 Whilst not opposing the proposed allocations per se, we would question where the evidence is to support the deliverability of the proposed allocations in the Reg 19 Plan. By way of example, site SA16 (Land at The Brow and St Wilfreds School) proposes 200 dwellings but encompasses multiple ownerships and requires the relocation of the school. The Reg 19 plan needs to demonstrate this site is deliverable. Likewise, site SA20 (land South and West of Imberhorne Upper School) is a major site that requires the relocation of a school and significant new infrastructure work, and the Reg 19 Plan needs to demonstrate that all 550 dwellings can be delivered within the plan period. We would also question whether the Council has evidence that the proposed allocation in Crawley Down (SA 22) has a deliverable access noting the separate ownerships, and the criticism levelled at site 1002.
- 1.16 Given the lack of flexibility in the housing supply, it only takes a few sites to take longer than predicted to deliver/ to fail to deliver for the council to find themselves vulnerable to speculative applications. Again, the Reg 19 Plan provides an ideal opportunity to protect against this by way of additional allocations
- 1.17 In addition to the above, as not all sites will deliver as planned, it is common practice to apply a 10% non-delivery rate. Whilst it could be argued that in providing for 1764 when only 1280 are required MSDC have already factored in a 10% non-delivery rate, we would suggest that the 10% has to be over the whole residual requirement – i.e. 1,147 dwellings<sup>10</sup> such that MSDC should be looking to provide for at least 2,427 dwellings in the Site Allocations DPD if they are to provide for some flexibility to address non-delivery. As set out above, increasing the overall supply to circa 17,663 would take the plan half-way to delivering a position between the adopted plan and that set out in the current standard methodology. This would require the Site Allocations DPD to provide for circa 2550 dwellings<sup>11</sup> i.e. just above that required to address non delivery and only 766 more than provided for. This is not a significant uplift, is easily achievable, and would provide for significant benefits in the HLS situation.

ii) Windfalls

- 1.18 Similarly, we would question what evidence MSDC have to justify a windfall allowance of 504 dwellings over the remaining plan period (to 2031). Whilst noting the content of the Windfall Study Update (July 2020) suggests windfalls have on average amounted to 64 to 106dpa for sites of 1 -9 units (which is the range accepted in the adopted development plan), it is of note that the annual windfall rates set out in tables 1 and 2 of the Windfall Study Update show a reduction of windfalls following the adoption of the local plan in March 2018 – which is what one would expect when a clear policy position is adopted against which sites should come forward. On this basis there can be no guarantees that past rates will return, especially in the current climate, such that we do not believe there is compelling evidence to increase the windfall rate from what would be 450 to 504 dwellings.
- 1.19 Paragraph 70 of the NPPF is clear that:

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<sup>10</sup> 16390 – 4917 (completions) = 11,473 x 10% = 1,147

<sup>11</sup> 17,664 referenced in para 1.12 – 16,874 = 790 + 1764 = 2554

*“Where an allowance is to be made for windfall sites as part of anticipated supply, there should be **compelling evidence** that they will provide a **reliable source** of supply. Any allowance should be **realistic** having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends....”*. We have seen no evidence to this effect and as such believe the figure should remain 450 dwellings and that additional sites should be allocated to address the shortfall.

c) The Spatial Strategy

- 1.20 Table 2.4 of Policy SA10 of the Reg 19 Plan looks to update the spatial distribution of the housing requirements given completions and consents. In doing so it indicates that the minimum residual requirements in the category 1 and 2 settlements has reduced and that within the category 3 settlements has increased, as is clear from table 4 below. Unfortunately, no evidence is contained within the Reg 19 Plan to demonstrate how MSDC have come to these figures. This should in our opinion be provided within the Reg 22 Plan to justify the level of change proposed in the likes of the category 2 settlements.

JAA table 4 – How Table 2.4 of policy SA10 has evolved through the plan process and compares to the policy DP4 of the adopted Development Plan

Settlement category	Minimum Residual Requirement	Updated Minimum Residual Requirement Reg 18 plan	Updated Minimum Residual Requirement Reg 19 plan	Difference
1	1,272	840	706	-566 44.5% less than LP figure
2	838	222	198	-640 76.37% less than LP figure
3	311	439	371	+60 19.29% above LP figure
4	18	6	5	-13 72.22% less than LP figure
Total	2,439	1,507	1,280	-1,159 47.52% less than LP figure

- 1.21 The reduction in the scale of development proposed in the category 2 settlements (highest reduction of all categories) is in our opinion significant and needs to be justified given the fact these are sustainable locations.
- 1.22 In addition to the above, it should be noted that table 2.4 of Policy SA10 does not reflect what is actually proposed in policy SA11 and table 2.5. The difference between the two is set out in the table 5 below.

JAA table 5 – How Tables 2.4 and 2.5 of policy SA10 compare, and relate to policy DP4 of the adopted Development Plan

Settlement category	Minimum Residual Requirement as set out in Policy SA10 (Table 2.4)	Number of dwellings proposed in policy SA11 (Table 2.5)	Difference between tables 2.4 and 2.5	Difference between table 2.5 and Minimum Residual Requirement set out in adopted Local Plan
1	706	1,409	+703	+137 1,409-1,272
2	198	105	-93	-733 105-838
3	371	238	-133	-73 238-311
4	5	12	+7	-6 12-18
Total	1,280	1,764	+484	-675 1,764 – 2,439

- 1.23 From the above it is clear again that the category 2 settlements are in particular seeing a significant reduction in housing development proposed within them when compared to that set out in the adopted Local Plan. As set out above this needs to be justified in the context of what has been consented / built in the category 2 settlements since the Local Plan was adopted, and also needs to be reviewed in the context of our position on the need for the Site Allocations DPD to look to deliver more than required by policy DP4 of the adopted Local Plan so as to assist MSDC in their overall HLS. The category 2 settlements are highly sustainability, with good access to local services and facilities. Many are located outside the AONB/ SDNP and beyond the 7km zone of influence of the Ashdown Forest SPA. They are thus a logical location for additional growth if MSDC choose to allocate more than required by policy DP4 of the adopted Local Plan. The fact the Site Allocations DPD concentrates the majority of additional development in the category 1 settlements, where significant development is already proposed and allocated in the District Plan actively prejudices the long-term vitality and viability of lower order settlements. The provision of new homes in category 2 settlements should be supported in order to maintain the vitality and viability of these settlements and the services within them, and to support the sustainable growth of the district, a point we return to in section 2 below.
- 1.24 As a category 2 settlement we believe that Crawley Down could accommodate more growth without prejudice to the local environment, and find it somewhat counter intuitive that the Site Allocations DPD looks to allocate more development in less sustainable and more environmentally constrained areas, including sites within the AONB, in category 3 settlements<sup>12</sup>, than it does in the more sustainable and less constrained category 2 settlements. There is nothing in the evidence base that justifies this approach.
- 1.25 Given the above we would suggest that policy SA11 looks to allocate additional sites within the category 2 settlements to help address the miss-match in the housing supply and at the same time provide for more flexibility in the supply. This would signal a more positive approach to plan making in accordance with the aims and objectives of the NPPF.

<sup>12</sup> The 'Major Development in the High Weald AONB Topic Paper' (July 2020) indicates that 6 of the 22 housing site allocations fall within the AONB. These provide a total of 218 dwellings (12.36%) of the number of dwellings to be allocated through the Reg 19 Plan. Whilst not commenting upon the individual merits of these sites, it is of note that all 6 sites are in category 3 settlements



## 2 The SA and Reasonable Alternatives

- 2.1 One of the key sustainability objectives against which the plan was assessed was ‘to ensure that everyone has the opportunity to live in a home suitable for their needs and which they can afford.’ Para 3.10 of the SA indicates that lower quartile house prices to earnings were 13.82 in 2017<sup>13</sup>
- 2.2 ONS in their ratio of median house price to median gross annual workplace-based earnings by local authority district, England and Wales, 1997 to 2019 suggest that the ratio of median house price to median gross annual workplace-based earnings in Mid Sussex has increased from 8.75 in 2010 to 11.23 in 2015 and 13.01 in 2019<sup>14</sup>. Table 6c suggests that the ratio of lower quartile house price to lower quartile gross annual workplace-based earnings in Mid Sussex was 13.80 in 2019. Affordability is thus a major issue in Mid Sussex and the delivery of more housing will help to address this. As set out in para 3.19 of the SA, the District Plan examination concluded that there should be an increase in housebuilding above demographic trends to increase supply with the intention to improve affordability. The Site Allocations DPD has the opportunity to continue this positive approach and should in our opinion if it is to demonstrate compliance with national government guidance.
- 2.3 Section 6 of the SA explains how the Site Allocations DPD has taken the residual housing requirement as its base, adapted the spatial distribution strategy to reflect the suitability of the sites put forward through the call for sites/ assessed through the SHELAA process and established the final set of sites to be taken forward for consideration. To this end we note that whilst the SHELAA reviewed 253 sites, 94 were ruled out at stage 1, and a further 108 at stage 2, leaving just 51 sites to be reviewed at stage 3 and through the SA process. The SA also explains that these 51 sites yielded some 3930 dwellings against what is said to be a requirement for 1,280. Table 15 goes on to differentiate between the 51 sites in terms of their performance against the SA objectives, and in so doing identifies 20 sites that yielded 1,424 dwellings that performed well, 19 sites that yielded 805 dwellings that performed badly and 12 sites that yielded 1,536 dwellings that were marginal.
- 2.4 In considering reasonable alternatives we note that the SA accepted the 20 (constant) sites that were to be allocated, and provided for some 1,424 dwellings, and tested these as a group (defined as option A), against 2 additional options; one included the land south of Folders Lane and east of Keymer Road + land South of 96 Folders Lane Burgess Hill to take the total number of dwellings to 1,764 (option B); and the other included the land at Haywards Heath Golf Club to take the total number of dwellings to 2,054 (option C). The SA concludes at para 6.52 that:  
*‘Following the assessment of all reasonable alternative options for site selection, the preferred option is option B. Although option A would meet residual housing need, option B proposes a sufficient buffer to allow for non-delivery, therefore provides more certainty that the housing need could be met. Whilst option C also proposes a sufficient buffer, it is at the expense of negative impacts arising on environmental objectives. The level of development within option C is approximately 50% above the residual housing need, the positives of*

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<sup>13</sup> ONS House price to workplace-based earnings ratio –March 2020- table 6c suggests this figure is 13.19 not 13.82.

<sup>14</sup> See table 5c – ONS House price to workplace-based earnings ratio - March 2020-

<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoworkplacebasedearningslowerquartileandmedian>

*delivering an excess of this amount within the Site Allocations DPD is outweighed by the negative environmental impacts associated with it.'*

- 2.5 Whilst we would question the assumptions made in table 20 of the SA when concluding on options A, B and C, we also believe that whilst option C was rejected by the SA, other larger sites, especially in category 2 settlements that reached site selection stage 3, such as the land west of Turners Hill Road, Crawley Down should have been considered further in terms of reasonable alternatives and that both the SA and the SSP are lacking in their explanation of what was and was not included in the selection process and why it was/ was not included.
- 2.6 Its clear from the SA that no consideration was given to providing for anything over and above the residual housing 'requirement' as MSDC saw it i.e. no assessment of the social, economic or environmental effects of providing say double that which was required to meet the minimum residual requirement. Providing for 2,554<sup>15</sup> dwellings rather than 1,764 could both assists MSDC in their HLS and help address the affordability issue that exists in the district. Furthermore, it is clear from the SHELLA that sufficient sites were put forward, and clear that the category 2 settlements are both less constrained and more sustainable than other areas and thus capable of delivering more if MSDC chose to adopt such an approach. If nothing else, testing this option would demonstrate a positive approach to the plan making process. As things stand, the SA has not tested any reasonable alternatives to that required to meet what MSDC consider to be the residual requirement. This approach fails to recognise the fact the housing requirement is not a maximum but a minimum and that subject to HRA, MSDC are able, if they choose to do so, to look to provide for more housing to meet local needs.

### 3 Site Selection Paper 3

- 3.1 Site Selection Paper 3 (Feb 2020) appears to be the paper that explains why sites were ruled in or out of the final SA process. In terms of the land west of Turners Hill Road, Crawley Down (SHELAA site ref 688 and 1002), we note the following:
- a) Site 688
- 3.2 SSP3 (Appendix B – Housing Sites), in commenting upon site 688 appears to highlight four main areas of concern:
- archaeology which is said to be a moderate constraint requiring mitigation;
  - local road / access which is said to be a moderate constraint requiring mitigation; and
  - access to public transport which is said to be poor.
  - landscape capacity which is said to be low to medium;
- 3.3 Taking each issue in turn we note:
- i) Archaeology:
- 3.4 The supporting text makes it clear that this matter is capable of mitigation through the submission of an archaeological assessment and associated mitigation strategy being agreed;

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<sup>15</sup> 17,663 referenced in para 1.12 – 16,874 = 790 + 1764 = 2554

In addition, 1280 (the residual requirement) x 2 = 2560

This is 789 - 796 above that provided for so not so substantial as to be undeliverable – esp. given the finding so of the SHELLA and SA.

ii) Roads:

- 3.5 The supporting text states: *'Access that runs through centre of site not suitable to serve large scale development. Direct access from Turners Hill Road would be required. Possible requires third party land'*
- 3.6 We have discussed this point with officer's ad infinitum. The existing road that runs through the centre of the site (Huntsland) is not intended to be used for vehicular access to the site, it is a public footpath which will provide sustainable linkages through the site and wider area. We have also provided a detailed transport note to demonstrate that there are three access options to serve this site. All can be achieved in accordance with relevant design guidance and will work in design, safety, and capacity terms; and none requires third party land. A copy of the technical note – ref JCB/MS/ITB9155-025 and dated 11<sup>th</sup> February 2020 is enclosed with these reps for further consideration. Said note includes a previous technical response dated 9 May 2019 as an Annex. These documents provide a detailed commentary on highways, access and public transport and demonstrate that:
- There are no know transport constraints that would prevent development of the site coming forward;
  - Specific discussions have been held with WSCC confirming the suitability of the access arrangements to serve additional development.
  - Significant design work has been undertaken with regard to the vehicular access arrangements to the site and these are fully deliverable in design, safety and capacity terms using land controlled by Wates Developments and the public highway, i.e. **no third party land is needed.**
  - The site is in a sustainable location in transport terms, including with regard to access to bus services and local facilities and services. This is evidenced by the Council's, WSCC's and/or planning inspector's comments on approved planning applications on adjacent sites.
- 3.7 On this basis, there is no constraint in terms of Local Roads/Access

iii) Sustainability / Access to Services

- 3.8 Public Transport is said to be poor, yet the more detailed critique of the site says: *'The site has fair access to local services and good access to public transport'* The text clearly contradicts itself. The latter is correct, and the assessment should be amended accordingly, a point we have made in the past to officers and has been accepted through recent appeals.
- 3.9 In the context of the above we note that the site has been judged to be further away from education and health facilities than it was in the previous SHEELA assessment. We would question the basis for this amendment as both are, we believe 'less than 10-minute walk' as per the previous SHEELA assessment and the facilities have not moved since that assessment.

iv) Landscape Capacity

- 3.10 The sites landscape capacity/ suitability appears to have been downgraded from 'medium' capacity as referred to in the April 2019 assessment to 'low – medium' in the latest assessment. A comparison of the two assessments is set out below.

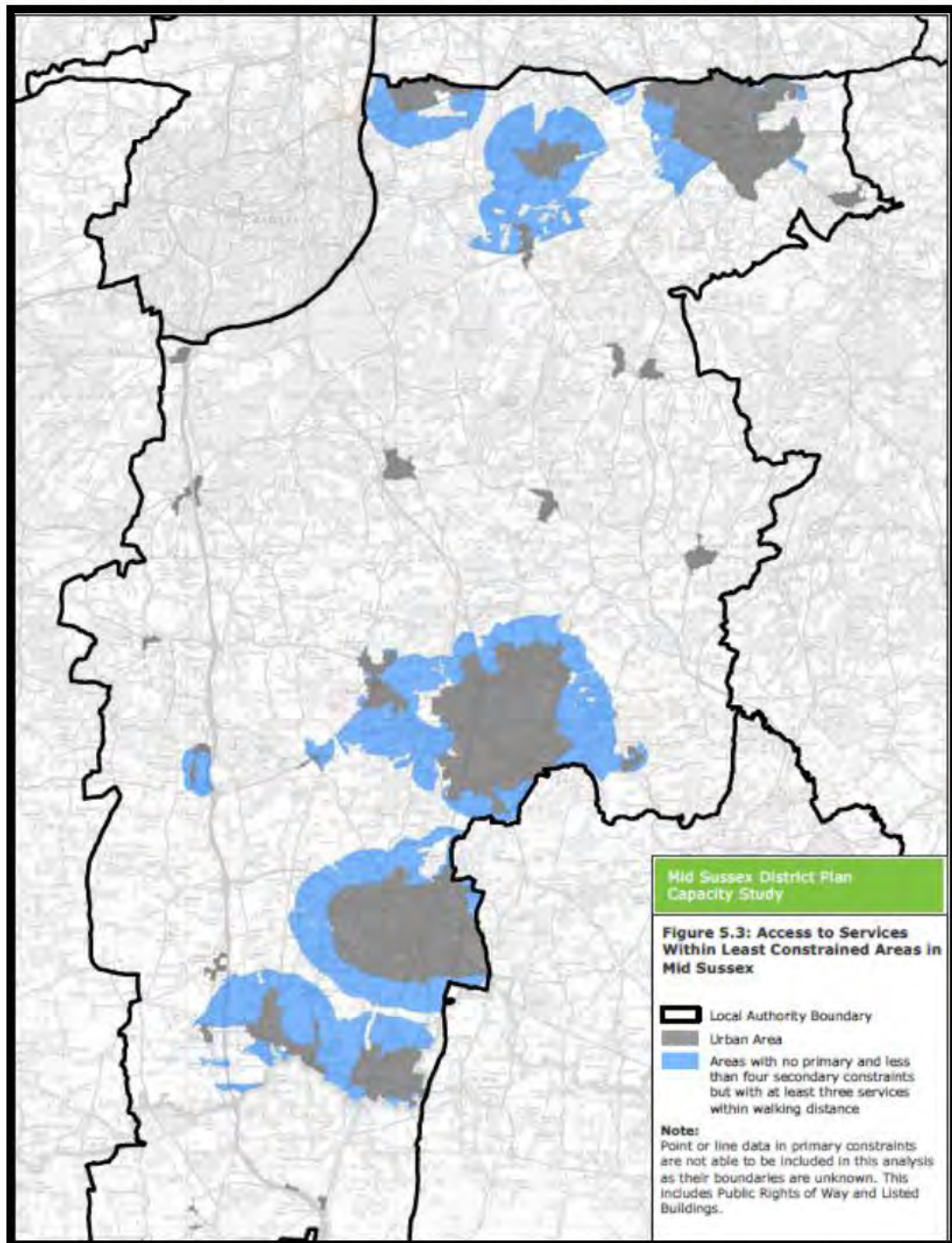


April 2019 Assessment	February 2020 Assessment
A rating of Medium identifies a landscape character area with the capacity for limited development, in some parts of the character areas, having regard for the setting and form of existing settlement and the character and sensitivity of adjacent landscape character areas. As a large strategic extension, this site would need further assessment to consider its landscape impact. There would need to be woodland buffers and consideration of the boundaries of the site and if they are or can be made defensible	<p>The site is of a significant scale and although relatively well screened in places by established woodland its undeveloped rural character is considered to make an important contribution to the wider rural setting of Crawley Down, from which it derives significant character. As a large strategic extension, this site would need further assessment to consider its landscape impact.</p> <p>The final design would likely need to incorporate woodland buffers and consideration of the boundaries of the site and the extent to which they are, or can be made, defensible. It is noted that the promoter has commissioned their own landscape evidence and prepared a masterplan for the site though it is not considered that in isolation this demonstrates mitigation of loss of rural character to the west of Crawley Down. Whilst the perimeter screening will help limit views in from the wider landscape, the scale of the site will necessarily require enhancement of the connections to Crawley Down creating a more permeable and open western boundary to the settlement where the current built area interfaces with the site. Therefore, whilst the site's impact on the wider landscape further to the west could have potential to be mitigated through the retention and enhancement of perimeter screening, the site's contribution to the rural setting of Crawley Down will likely be eroded through the perceptual and actual urbanisation of what is currently a rural landscape, regardless of the notion that there are currently limited sightlines between the west of the town and the site itself</p>

- 3.11 In defining landscape capacity/ suitability the Site Selection Paper 2 - Methodology for Site (December 2018, last updated 03/08/2020) in Section 3, p7, advises:

8) Landscape Capacity/Suitability (for sites not in AONB)	
<i>"Planning policies and decisions should contribute to and enhance the natural and local environment by ... protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils ... recognising the intrinsic character and beauty of the countryside" (NPPF 2018, para 170)</i>	
Source: Capacity of Mid Sussex District to accommodate development (LUC, 2014), SHLAA: Review of Landscape and Visual Aspects of Site Suitability (LUC, 2015), Landscape Capacity Update (TBC), High Weald AONB Unit Assessments, South Downs National Park Authority Assessments	
Assessment Notes: Conclusions are drawn for each site dependent on which Landscape Capacity area they are within (as determined by the landscape capacity studies, based on their assessment methodology) or comments received from specialist advisors.	
Low	Based on landscape evidence, low potential in landscape terms
Low/Medium	Based on landscape evidence, low/medium potential in landscape terms
Medium	Based on landscape evidence, medium potential in landscape terms
Medium/High	Based on landscape evidence, medium/high potential in landscape terms
High	Based on landscape evidence, high potential in landscape terms / site is within Built-up Area

- 3.12 Having regard to the above we note that the LUC's report '*Capacity of Mid Sussex District to Accommodate Development*' (2014), indicates in Figure 4.2: Constraints to Development in Mid Sussex (Primary and Secondary) and Figure 4.3: Constraints to Development in Mid Sussex (Graded by Number of Secondary Constraints) that the land west of Turners Hill Road, Crawley Down is one of the least constrained parts of the district and Figure 5.3: Access to Services Within Least Constrained Areas in Mid Sussex, shows the land west of Turners Hill Road, Crawley Down to be an areas with '*no primary and less than four secondary constraints but with at least three services within walking distance*'.



- 3.13 Table 3 (p77) of LUC's Capacity Study (2014) report goes on to score the site as having '*medium landscape capacity*'. Which is defined as indicating '*that there is the potential for limited smaller-scale development to be located in some parts of the character area, so long as there is regard for existing features and sensitivities within the landscape*'. The 2014 LUC report gave Area 45, within which the Haywards Heath Golf Course, is located the same landscape capacity. Which it retains in Site Selection Paper 3. It is not clear why, given the fact the site selection papers relate back to the LUC capacity study, some areas have seen their capacity revised and others have not. Either the council are relying on the findings of the LUC report or not, and if the latter they need to explain the rationale behind the revised scoring system they are now using.
- 3.14 In the context of the above, we note that in the main, historical assessments of the site conclude that the site has capacity, in landscape and visual terms, for development. Where capacity has been assessed as more limited (Mid Sussex District SHLAA: review of Landscape and Visual Aspects of Site Suitability, 2015) it has been shown that sensitive development, with the retention of the existing woodland structure, would enable development with limited landscape and visual effect. The information provided with our reps on the Reg 18 Plan demonstrated that provided areas of proposed development were located sensitively within the existing landscape structure, with buffers applied to areas of Ancient Woodland, development could be incorporated with **limited landscape and visual effects**. Potential landscape and visual effects could be largely contained within the site itself subject to the retention and reinforcement of the existing woodland structure surrounding and across the site. The MSDC assessment notes "*the site's impact on the wider landscape further to the west could have potential to be mitigated through the retention and enhancement of perimeter screening*" which aligns with the conclusions of the Preliminary Landscape and Visual Opinion. The MSDC assessment goes on to suggest that "*whilst the perimeter screening will help limit views in from the wider landscape, the scale of the site will necessarily require enhancement of the connections to Crawley Down creating a more permeable and open western boundary to the settlement where the current built area interfaces with the site*". The Preliminary Landscape and Visual Opinion submitted with our Reg 18 reps recommended that existing trees and shrubs should be retained as far as possible and that any access point be planted up with new native tree and shrub planting after construction to limit any potential views into the site and maintain the wooded character of the B2082. The Preliminary Landscape and Visual Opinion assessed that this would result in very limited, and localised, potential landscape and visual effects within the site itself which would not affect the wider landscape context. The council's assessment appears to have ignored the findings of the Preliminary Landscape and Visual Opinion Assessment and the conclusions of the LUC work. Given the findings of these studies, we fail to see why the sites landscape capacity/ suitability has been downgraded. Clearly reviewing these assessments could lead to the site being included within the list of sites referred to the SA for assessment. The site is in our opinion a reasonable alternative to a number of the sites put forward for consideration through the SA and as such should have been considered and may well have been allocated. The council's failure to take on board the information provided in the Reg 18 reps and review the site is in our opinion yet another example of a lack of positivity in the plan making process and suggests a plan that is inconsistent with national government guidance and not soundly based.
- 3.15 The whole site was described in the SHELAA (April 2018) as suitable, available, and achievable, and put forward to progress to stage 2 assessment. It went on to progress through the site selection paper stage 1 assessment in Sept 2018, and the stage 2 assessment in Dec 2018. It was only at the stage 3 assessment that the site was excluded.



To this end we note that para 3.4.13 of SSP3 advises that mitigation to address the reason for exclusion was either unavailable or unnecessary in light of more sustainable alternative sites being available. SSP3 goes on to suggest on p 49 that site 688 was not considered further following detailed assessment as it was a:

*'Large site in relation to the housing requirement of the settlement. Potential yield is 300 in relation to a need of 18. Considered that there are more suitable sites available to meet this need.'*

- 3.16 No consideration was, we note, given to the site being developed on a gradual basis, but subject to an overarching masterplan. Furthermore, the rationale for not taking the site forward seems somewhat perverse when other sites of a comparable or greater size have been taken forward as allocations in the Site Allocations DPD<sup>16</sup>. Further, giving the recent context of permissions nearby, there is a clear acceptance of this location being suitable for development and an obvious direction of travel for more housing in Crawley Down.
- 3.17 Having regard to the above we believe that the land west of Turners Hill Road, Crawley Down was unfairly deleted from consideration within the SA at site selection stage 3 and that it should have been a reasonable alternative to those that were assessed, especially as it is not in the AONB, the whole of site 1002 and the vast majority of site 688 is beyond the 7km zone of influence of the Ashdown Forest SPA, and is not as environmentally sensitive as some sites such as the land at Haywards Heath Golf Club which was taken to stage 3 – albeit not allocated through the SA process

b) Site 1002

- 3.18 We note that the SSP3 in commenting upon site 1002 appears to highlight three main areas of concern:
- archaeology which is said to be a moderate constraint requiring mitigation;
  - local road / access which is said to be a moderate constraint requiring mitigation; and
  - landscape capacity which is said to be low to medium;

- 3.19 Taking each issue in turn we note:

i) Archaeology:

- 3.20 The supporting text makes it clear that there is in reality no objection to this site's development in archaeological terms subject to archaeological assessment and mitigation i.e. a Desk-Based Assessment & walkover & geophysical surveys

ii) Roads:

- 3.21 The supporting text indicates that a new road will be required to serve the site onto Turners Hill Road – this is not however an impediment to development – as is clear from the note

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<sup>16</sup> 300 dwellings on land south of Folders Lane and east of Keymer Road Burgess Hill – SA13  
200 dwellings at The Brow and St. Wilfrid's School Burgess Hill – SA16  
200 dwellings on Land South of Crawley Down Rd East Grinstead – SA19  
550 dwellings on Land South and West of Imberhorne Upper School East Grinstead – SA20



produced by iTransport in February 2020 in response to the updated SHELLA, there is no constraint in terms of achieving access in design, capacity, safety or land ownership terms. Specific discussions have been held with WSCC confirming the suitability of the access arrangements to serve additional development. Specific discussions have been held with WSCC confirming the suitability of the access arrangements to serve additional development.

- 3.22 As an aside it is also noted that the distance to Health, Services and Public Transport are scored more positively (and we believe more correctly) than the appraisal of site 668.

iii) Landscape

- 3.23 The sites landscape capacity/ suitability is assessment to 'low – medium'. The supporting text suggest that *'This rating indicates that development is likely to have an adverse effect on most of the character area and while smaller development may be possible in a very few locations within the character area, it will not be suitable for strategic scale development. However, this site is relatively well screened in places by established woodland which will help limit views in from the wider landscape.'* This statement is in our opinion muddled and misleading. Site 1002 is being promoted for 30 – 50 dwellings. This is not a strategic scale of development. 50 dwellings across 2.5 hectares would normally be considered "smaller development". Furthermore, as acknowledged in PPS3, the site is well screened and subject to limited views from the wider area. LUC's 'Capacity of Mid Sussex District to accommodate development' (2014) indicates that the area, within which the site is located, had a "medium" capacity for development being an area with no primary constraints and "less than 4 secondary Constraints with more than 3 Services". Furthermore, Site 1002 is located within the area classified as LCA 3: Crawley Down Northern Fringe. This LCA is assessed as having a Substantial Landscape Sensitivity, a Slight Landscape Value and correspondingly a Medium Landscape Capacity for development reflecting LUC's 5 point scale as described in Section 4 of that report. SSP3 accepts that *"this site is relatively well screened in places by established woodland which will help limit views in from the wider landscape"*. As a result, it is likely that the potential landscape and visual effects of development would be localised, and proposed development would not be likely to have *"an adverse effect on most of the character area"* as suggested in SPP3.
- 3.24 To assess its landscape capacity as low – medium is not therefore justified in our opinion.
- 3.25 That said we note that on p49 of SSP3, Site 1002 is *'not considered further following detailed site assessment'* because: *'Ancient woodland on eastern boundary with significant buffer extending into the site.'* The sites relationship with ancient woodland is however only seen as a partial issue in the detailed site appraisal, wherein it states: *'Front Wood ancient woodland forms the entire eastern boundary and intersects with the site's southern extent. 15m buffer extends into the site.'*
- 3.26 As demonstrated in the illustrative layout submitted with the Reg 18 reps (copy attached), the site is capable of being developed so as to accommodate 30 – 50 dwellings with no infringement into the 15m buffer to the ancient woodland that lies adjacent to/ within the site. Again, we note that when assessing the Hayward Heath Golf Club (SHLAA site 503), which also abuts/ contains areas of ancient woodland, PPS3 did not see this as an impediment to development. In our opinion the council appear to be adopting conflicting approaches to the assessment of certain criteria dependent upon their overall position on a site's development potential. This results in an evidence base that appears is totally unjustified when scrutinised.

- 3.27 Whilst part of a wider site, site 1002 is capable of being delivered in isolation of the wider proposals with the benefit of its own access and is in close proximity to the local services and amenities whilst being well screened from the surrounding area. The council's decision to exclude it from the third stage of the site assessment process and the SA is in our opinion totally unjustified and again suggest a plan that is not positive in its outlook or consistent with national government guidance in this regard.

#### 4 Conclusions on Reg 19 Site Allocations PDP

- 4.1 To conclude, whilst we accept that the scale of development now proposed in policy SA10 of the Site Allocations DPD is less than that proposed in Policy DP4 of the adopted Local Plan given completions and consents granted since the Local Plan was adopted in March 2018, we are concerned that the scale of growth is in reality little more than the minimum needed to meet the requirements set out in the adopted local plan and that as such the site allocations DPD provides for limited flexibility. This begs the question as to whether the plan is positively prepared, consistent with national policy and sound. Whilst it is not incumbent upon the Site Allocations DPD to meet anything over and above that required by the adopted plan, the direction of travel of the housing requirement, the age of the adopted plan and the time it will take to adopt a new plan is such that providing for additional flexibility by way of further growth would suggest a plan that is positively prepared, and consistent with national policy.
- 4.2 Our position in this regard is exacerbated by the fact that spatial distribution strategy set out within policy SA10 does not reflect that promoted in policy DP4 of the adopted local plan. The level of growth directed to category 2 settlements in policies SA10 and SA11 of the Reg 19 Plan being significantly less than that proposed in the adopted Local Plan; and by the fact that there is a clear miss-match between what is said to be the minimum residual requirement for each settlement category in policy SA10 and what is actually allocated in policy SA11. This coupled with the lack of growth directed towards the category 2 settlements again leads us to question whether the plan is positively prepared, consistent with national policy and sound.
- 4.3 The lack of any assessment to a reasonable alternative above the residual minimum requirement in the SA and the basis upon which sites were sifted through PPS3 and the SA also leads one to question whether the plan is positively prepared, consistent with national policy and sound.
- 4.4 The discrepancies between the way in which sites 688/ 1002 and other sites were assessed in PPS3 and thus deemed appropriate for consideration in the SA is in our opinion unjustified and reminds us of the debate at the LP examination, where, in his interim findings<sup>17</sup> the LP Inspector, when commenting upon the SHLLA states:  
*'The SHLAA rejects a number of sites on the basis of availability, transport access, sewerage, landscape capacity, heritage assets, ancient woodland and so on. These are important issues but what the analysis does not do is to consider the extent to which they might be resolved or mitigated through highways and footway improvements, sewerage infrastructure, selective development of parts of sites, the incorporation of green buffers and other measures. In some cases the absence of evidence counts against a site without any further assessment. .... I have no doubt from the site exercise carried out for the hearing on 8 February that there are sites rejected through the SHLAA process which, through their characteristics or location,*

---

<sup>17</sup> ID11 - 20 February 2017

<https://www.midsussex.gov.uk/media/2892/id11-inspectors-interim-letter-housing-20-feb-17.pdf>

*might remain unacceptable. But other representors have given examples where relatively minor infrastructure or mitigation measures, different site boundaries or developable areas, might enable sites to come forward, and have cited other examples where identified constraints in the SHLAA have not proved obstacles to the subsequent allocation of sites, or to the grant of planning permission.*

*There are some constraints in certain localities, such as sewerage and highway capacity, which may be partially dependent on the programmes of other bodies to resolve. But housing provision is a government priority and should be reflected in the programmes of other public bodies. It is also the case that both site-related development contributions and CIL will assist in future in addressing such constraints'*

- 4.5 All of the above leads us to conclude that not only does the discrepancy between site assessments need to be resolved, but in the light of no clear housing trajectory and no clear 5 yr HLS assessment, the council should be looking to review the merits of allocating additional sites such as the land west of Turners Hill Road, Crawley Down, be this site 688 or just part of the site (i.e. site 1002), to help provide greater flexibility within the housing trajectory, more growth within the category 2 settlements, and more sustainable development per say.
- 4.6 In the context of the above, without a clear housing trajectory we have to question whether all the housing sites relied upon in the housing trajectory, including those allocated in the Reg 19 Plan are deliverable and/or developable having regard to the definitions of these terms in the Glossary of the NPPF, and what evidence there is to support this.
- 4.7 There is in our opinion merit in the Reg 19 plan looking to deliver circa 2550 dwellings rather than the 1,764 proposed. This will help address non delivery against the current residual requirement, help move the housing supply closer to that required under the standard methodology, and provide for greater flexibility, thus protect against speculative development. It only requires land to accommodate an additional 786 dwellings to be provided of, which is not significantly greater than proposed, and given the findings of the SHLAA eminently achievable.

## 5 The merits of the land west of Turners Hill Road, Crawley Down

- 5.1 The site is located in a sustainable location free from any landscape designations, beyond the 7km zone of influence of the Ashdown Forest SPA, outside of any conservation area, and within flood zone 1.
- 5.2 Site 688 is available for development and can be brought forward as a whole to provide for 300 dwellings and associated facilities, or on a gradual basis – subject to a site wide masterplan. The illustrative masterplan provides for:
- A development of circa 300 dwellings – to be brought forward as a whole or on a gradual basis;
  - The ability to come forward in a phased manner, most notably in relation to land south of Huntsland for which an indicative layout is provided
  - Three points of access which WSCC have consulted on and raised no objection;
  - A development that is permeable and provides for enhancements to existing pedestrian/cycle links to between the site and the village centre, and the surrounding area supported by two key existing routes which run alongside the site providing easy access to East Grinstead and Crawley;
  - A surface water drainage strategy that looks to incorporate SuDs features to provide for flood storage, attenuation and mitigation areas so as to address the effects of the



proposed development – including a 40% allowance for climate change and help reduce flood risk elsewhere;

- A development that looks towards an integrated landscape, drainage and ecological strategy that provides suitable buffers to adjacent areas of ancient woodland, protects wildlife corridors, links existing corridors and creates new corridors, so as to create biodiversity net gains;
- A development that retains and protects existing ponds and provides suitable buffers to them;
- A development that is landscape led – retains existing trees and hedgerows where possible and provides for generous structural planting and landscape buffers to soften the edge of the development;
- A development that provides a generous amount of good quality green space, including open space, youth and children's play areas, sports and other recreational facilities;
- A development that provides for allotments and community orchards; and
- A development that provides for suitable buffers around existing properties so as to retain their character and amenity.
- A development that looks to protect local views by avoiding development within the most visually sensitive areas and by sympathetically reinforcing the existing landscape structure.

5.3 In addition, the development of this site could also provide tangible benefits for the local community in terms of improvements to the local highway network, improvements to public transport provision, enhanced pedestrian and cycle links, new sports facilities, new play facilities. It could also, if a need is demonstrated, provide land to accommodate a new primary school, health facility or community facility.

5.4 The above and attached clearly demonstrates a scheme that can provide for much needed family sized housing, affordable housing and starter homes without any adverse environmental or landscape impacts.

5.5 Site 1002 is available for development. The illustrative masterplan provides for:

- ☐ A development of circa 30 - 50 dwellings;
- ☐ A single point of access which WSCC have consulted on and raised no objection;
- ☐ A development that is permeable and provides for enhancements to existing pedestrian/cycle links to between the site and the village centre, and the surrounding area supported by two key existing routes which run alongside the site providing easy access to East Grinstead and Crawley;
- ☐ A surface water drainage strategy that looks to incorporate SuDs features to provide for flood storage, attenuation and mitigation areas so as to address the effects of the proposed development – including a 40% allowance for climate change and help reduce flood risk elsewhere;
- ☐ A development that looks towards an integrated landscape, drainage and ecological strategy that provides suitable buffers to adjacent areas of ancient woodland, protects wildlife corridors, links existing corridors and creates new corridors, so as to create biodiversity net gains;
- ☐ A development that is landscape led – retains existing trees and hedgerows where possible and provides for generous structural planting and landscape buffers to soften the edge of the development;
- ☐ A development that provides a generous amount of good quality green space, including open space and youth and children's play areas;

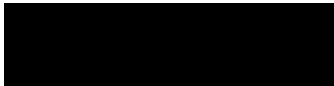
- A development that provides for suitable buffers around existing properties so as to retain their character and amenity.
- A development that looks to protect local views by avoiding development within the most visually sensitive areas and by sympathetically reinforcing the existing landscape structure.

5.6 In addition, the development of this site could also provide tangible benefits for the local community in terms of improvements to the local highway network, improvements to public transport provision, enhanced pedestrian and cycle links, and new play facilities.

5.7 The above and attached clearly demonstrates a scheme that can provide for much need family sized housing, affordable housing and starter homes without any adverse environmental or landscape impacts.

Given the above we would welcome the opportunity to meet with officers to discuss our proposals for the land west of Turners Hill Road, Crawley Down further.

Yours sincerely



**JUDITH ASHTON**  
**Judith Ashton Associates**

Encl    Conceptual Masterplan – drawing 17075 / C03L  
         Illustrative layout – drawing 17075 / SK05A  
         i-Transport Transport note ITB9155-025 dated 11 February 2020  
         SLR Landscape Technical note: Response to Site Selection Paper 3, Appendix B dated Sept 2020

C.c.    Jordan Van Laun – Wates Developments

## Technical Note

Project No: ITB9155  
Project Title: Land South of Huntsland, Turners Hill Road  
Title: Response to MSDC Site Appraisal – Transport Points  
Ref: ITB9155-025 TN  
Date: 11 February 2020

### SECTION 1 Introduction

- 1.1 This Technical Note provides a response to Mid Sussex District Council's appraisal of site 1002, Land South of Huntsland, Turners Hill Road.
- 1.2 In terms of 'Deliverability Considerations', the MSDC assessment scores the site as follows:

**Image 1.1: Deliverability Considerations**

Part 2 - Deliverability Considerations		
10 - Highways		
11 - Local Road/Access	Significant - Improve	A new access will be required to serve the site
12 - Deliverability	Reasonable prospect developability	Site promoted through the Site Allocations DPD Reg 18 consultation.
13 - Infrastructure	Infrastructure capacity	Assumed normal infrastructure requirement apply

**Image 1.2: Sustainability/Access to Services**

Part 3 - Sustainability / Access to Services	
14 - Education	10-15 Minute Walk
15 - Health	Less Than 10 Minute Walk
16 - Services	Less Than 10 Minute Walk
17 - Public Transport	Fair

- 1.3 This note comments on the following transport-related criteria:
- 10: Highways
  - 11: Local Road / Access
  - 17: Public Transport

## SECTION 2 Response

2.1 Taking each point in turn:

### 10: Highways

2.2 Whilst it is understood that this assessment will be undertaken through the Site Allocations DPD process in due course, the following should be noted at this stage:

- Based on the promoters extensive experience of development locally, there is confidence that there are no insurmountable capacity issues on the highway network;
- Modelling within a Transport Assessment will provide an opportunity to consider the matter in further detail and, if necessary develop schemes of mitigation as appropriate;
- The site scores well in terms of sustainability. Against this background, the opportunity exists to minimise off-site traffic impacts by promoting travel on foot, by cycle and by public transport; and
- Against this background, there are no known transport constraints to development of this site.

### 11: Local Road / Access

2.3 It is not correct that the score is towards the negative end of the scale. As set out in the note enclosed as **Annex A**, which responded to the previous SHELAA Assessment, significant work has been undertaken on the access arrangements and access is readily achievable from Turners Hill Road.

**Image 2.1: Proposed Vehicular Access**





- 2.4 Section 3.1 of the note in Annex A provides capacity testing results and demonstrates that the proposed access arrangements will operate with minimal queuing and delay. Initial design plans have also been produced demonstrating that the access complies with design standards including in terms of providing the necessary visibility splays.
- 2.5 There is no constraint to achieving access and accordingly the score should be **'None'**.

### **17 – Public Transport**

- 2.6 The site has been scored as 'fair'. Whilst this is the result of the correct application of the Council's methodology, it underplays the good accessibility of the site and the suitability of this location for new housing, which has been tested at nearby planning appeals. As set out in Section 3.2 of the note in Annex A, WSCC consider this a sustainable location for new housing:

***"It is agreed that the site is in a sustainable location in transport terms and there will be good opportunities for the residents to travel by sustainable modes, e.g. walking, cycling and public transport."***

***"There are good opportunities for sustainable travel, and these will be appropriately taken up by the appeal schemes"***

(ref: Transport Statement of Common Ground for appeal references: APP/D3830/V/16/3149579 and APP/D3830/W/16/3145499)

## **ANNEX A: RESPONSE TO SHELAA APPRAISAL**

## Technical Note

Project No: ITB9155  
Project Title: Land West of Turners Hill Road  
Title: Response to SHELAA Appraisal  
Ref: JCB/MS/ITB9155-024A  
Date: 9 May 2019

### SECTION 1 INTRODUCTION

1.1 The latest round of Mid Sussex District Council's (MSDC's) 'Strategic Housing and Economic Land Availability Assessment' (SHELAA) includes an appraisal of Land to West of Turners Hill Road, Crawley Down (*SHELAA Ref: 688*), which is being promoted by Wates Developments for residential development.

1.2 With regards to **transport matters**, the SHELAA site pro-forma includes the following comments:

- **11 – Local Roads/Access**      **Moderate – Improve**      ***Access that runs through centre of site not suitable to serve large scale development. Direct access from Turners Hill Road would be required. Possible requires third party land.***
- **17 – Public Transport**      **Poor**      ***The site has fair access to local services and good access to public transport.***

1.3 This note demonstrates that access is achievable at three locations and confirms that there is no requirements for third party land.

1.4 There is a contradiction within part 3 (criterion 17) of the SHELAA with regard to public transport, as set out above – it is described as both 'poor' and 'good'. The principle of new housing in this location has been found acceptable by the Council (for the 'Wychwood' scheme) and the Secretary of State (for the 'Land West of Turners Hill Road' schemes) so it is assumed that the latter (good) assessment is the correct one. Notwithstanding this, this note sets out the good level of public transport in the local area.

- 1.5 It should be noted that the pro-forma incorrectly identifies the site's yield as 750 homes. The figure promoted in the call for sites was 300 homes. This note demonstrates there is highway capacity to accommodate more.

## SECTION 2 BACKGROUND

- 2.1 The land is controlled by Wates Developments and is located immediately to the south and west of the following permitted schemes:
- i 'Wychwood' scheme – 23 dwellings (*ref: 14/0200/OUT*); and
  - ii Land West of Turners Hill Road – 44 dwellings (*ref: DM/15/3614*) and 30 dwellings (*ref: DM/15/3979*)
- 2.2 Both sites are accessed via a new priority junction with Turners Hill Road junction to the north of the Sandy Lane junction (Location A in image 2.1). This junction, and the internal estate roads, have been specifically designed to accommodate a significantly greater level of development.
- 2.3 In addition, the wider site benefits from additional and significant frontage on to Turners Hill Road to the south. This provides the opportunity to provide for additional accesses (Locations B and C in image 2.1).
- 2.4 The emerging illustrative masterplan for the residential development is provided in **Appendix A**, an extract of which is provided below. The letters on the image below denote the locations of accesses referred to in Section 3 of this report.



Wychwood Site

Wates 44 Home Site

A

A1

B

C

0.59ha Agriculture at 1000000

0.51ha Agriculture at 1000000

2.03ha Agriculture at 1000000

1.04ha Agriculture at 1000000

0.68ha Agriculture at 1000000

1.32ha Agriculture at 1000000

0.70ha Agriculture at 1000000

0.56ha Agriculture at 1000000

0.89ha Agriculture at 1000000

1.16ha Pasture at 1000000

0.88ha Agriculture at 1000000

## SECTION 3 RESPONSES TO COMMENTS OF PRO FORMA

### 3.1 Access

#### Options

#### 3.1.1 There three potential points of vehicular access to the site:

- An Existing Priority Junction at the Northern Point of Access – *ref: ITB9155-GA-008A at Location A in Image 2.1)* - which serves the Wychwood site and will serve the permitted Wates 44 site. This will punch through into Land West of Turner's Hill Road at Location A1:
- Potential Simple Priority Junction at Central Point of Access – *ref: ITB91055-GA-011D at Location B;* and
- Potential Signal Controlled Junction at Southern Point of Access – *ref: ITB9155-GA-010B at Location C.*

#### 3.1.2 All options have been prepared in accordance with relevant design standards and take into account local circumstances, e.g. prevailing vehicle speeds. None of these accesses require third party land:

- i All three vehicular accesses will be onto Turners Hill Road.
- ii For the northern access, Wates has retained the necessary rights to connect the wider site via the permitted Wychwood and Land West of Turners Hill Road schemes. Specific discussions have been held with WSCC confirming the suitability of this access to serve additional development.
- iii For the central and southern accesses, the development abuts or overlaps highway land on Turners Hill Road.

#### 3.1.3 Updated drawings of the three site accesses, showing the site boundaries in red and highway boundary in green, are provided at **Appendix B**. Extracts are provided below:

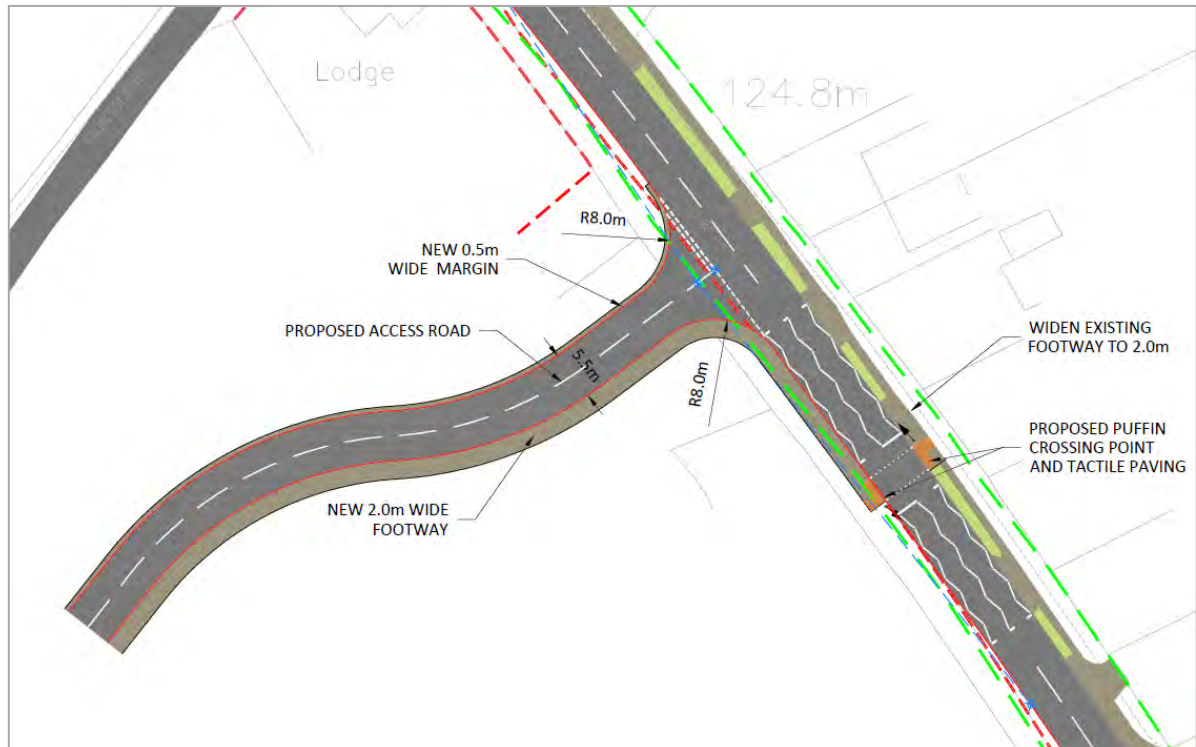
**Image 3.1: Existing Priority Junction on Turners Hill Road (Location A)**



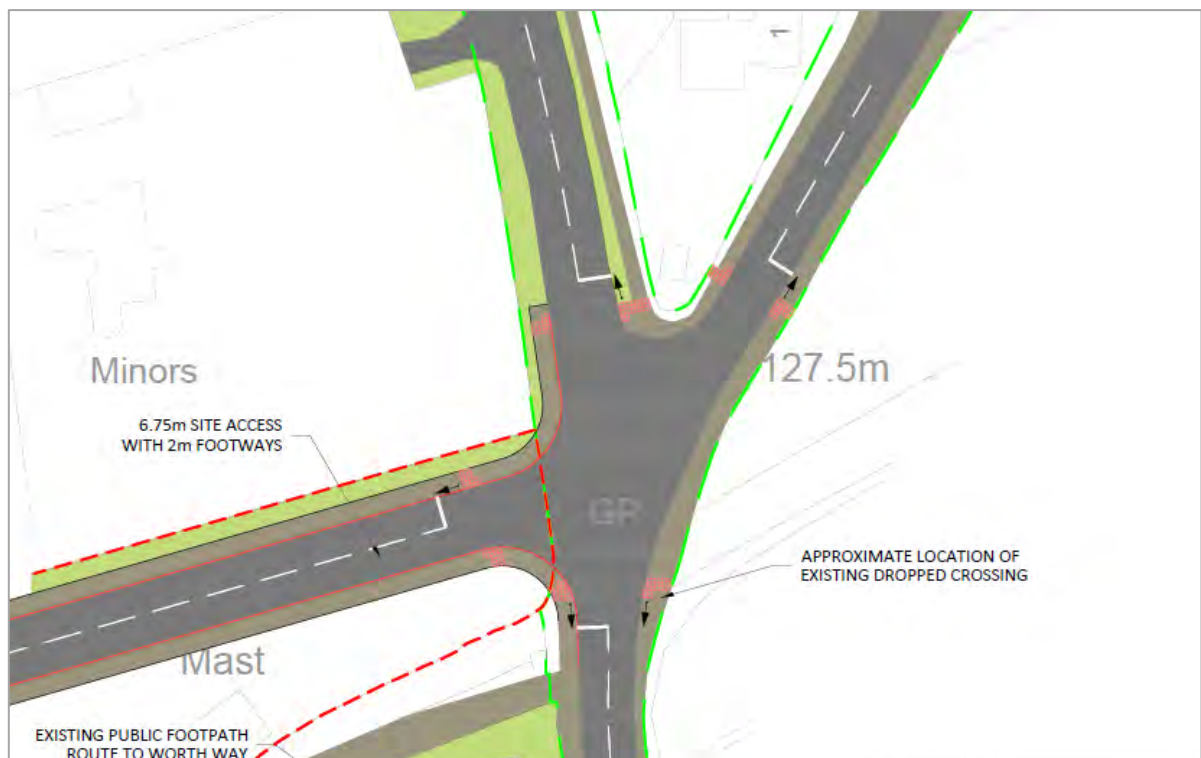
**Image 3.2: Potential Westward Extension of Access Road into Site (Location A1)**



**Image 3.3: Potential Priority Junction on Turners Hill Road (Location B)**



**Image 3.4: Potential Signal Controlled Junction on Turners Hill Road (Location C)**



**3.1.4** On this basis, all three access options are deliverable in highways design terms, and are deliverable using the public highway and land that Wates controls.



### Capacity

- 3.1.5 Junction capacity testing of the northern access with the permitted 67 homes plus 300 homes at Land West of Turners Hill Road has been undertaken using Junctions 9 (the industry standard tool for assessing the operation of priority junctions).
- 3.1.6 The modelling is summarised below in **Table 3.1**:

**Table 3.1: Junction Assessment of Site Access**

Arm	Morning Peak Hour			Evening Peak Hour		
	RFC	Queue (veh)	Delay (s)	RFC	Queue (veh)	Delay (s)
<b>2020 + Committed Development + 300 homes at Land West of Turners Hill Road</b>						
Site Access to Turners Hill	0.41	1	17.20	0.27	<1	14.30
Turners Hill to Site Access	0.17	1	4.95	0.56	3	6.47

Source: Junctions 9

- 3.1.7 The junction will operate with ample spare capacity – even if it served all 300 new homes plus the 67 existing/permitted.
- 3.1.8 The central access (location B) will similarly operate without any issue with queuing or delay given that it effectively the same arrangement as the northern access but will have lower traffic demands because:
- a It would serve fewer dwellings than the 367 tested for the northern access; and
  - b Traffic flows on the central/southern sections of Turners Hill Road are lower than they are at the northern end.
- 3.1.9 The southern access – a four arm signalised arrangement – is likely to offer greater capacity than an uncontrolled priority junction – and therefore offers a viable third access option.
- 3.1.10 On this basis, all three accesses could potentially serve in excess of 300 homes each. A development of over 600 homes could therefore come forward, even if two points of access onto the highway were accepted. In highways terms, the site could therefore accommodate significantly more than the 300 homes stated in the call for sites.

## 3.2 Public Transport

- 3.2.1 The in-principle acceptability of this location for new housing has been established by:

- i The 'Wychwood' scheme; and
- ii The Land West of Turners Hill Road schemes.

3.2.2 The former scheme was approved by the Council themselves.

3.2.3 The latter schemes were recommended for approval by the highway authority but refused for other reasons. They were considered by a Planning Inspector (*appeal references: APP/D3830/V/16/3149579 and APP/D3830/W/16/3145499*) at a planning inquiry in January 2017. The Inspector's report (dated April 2017) raises no issue with the accessibility of the location. The Secretary of State agreed with the Inspector's recommendations and approved both schemes in March 2018.

3.2.4 For that appeal, the Statement of Common Ground agreed between WSCC and i-Transport confirms the acceptable public transport accessibility of the location:

***"It is agreed that the site is in a sustainable location in transport terms and there will be good opportunities for the residents to travel by sustainable modes, e.g. walking, cycling and public transport."***

***"There are good opportunities for sustainable travel, and these will be appropriately taken up by the appeal schemes"***

3.2.5 The services at that time are virtually identical to those available today. These bus services have been reviewed and an updated table of bus services is provided as **Appendix C**.

3.2.6 On this basis, the site is in principle well served by public transport. The masterplan (*ref: Image 2.1*) shows multiple direct links to Turners Hill Road (including the existing 'Huntsland public footpath within the site and Worth Way / National Cycle Route 21 along the southern site boundary, to which connections could be provided) which will minimise walking distances to bus services.

3.2.7 Furthermore, a development of 300 homes (or potentially a significantly higher number – *ref: Section 3.1*) will provide genuine opportunities for further improvements to access by sustainable travel modes, including enhanced access to bus services.

## SECTION 4 SUMMARY AND CONCLUSIONS

### 4.1 On this basis:

- There are three access options to serve the 300 dwellings proposed on the site. All can be achieved in accordance with relevant design guidance and will work in design, safety and capacity terms. Between them they could accommodate significantly more than 300 homes. None requires third party land.
- The site is well served by public transport and the in principle acceptability of housing in this location is established by the Council's own decisions, a planning Inspector and the Secretary of State.

# LAND SOUTH OF HUNTSLAND, TURNERS HILL ROAD

**Technical note: Response to Site Selection Paper 3,  
Appendix B**

Prepared for: Wates Developments

SLR Ref: 403.06269.00032  
Version No: 2  
September / 2020





## BASIS OF REPORT

This document has been prepared by SLR with reasonable skill, care and diligence, and taking account of the manpower, timescales and resources devoted to it by agreement with Wates Developments (the Client) as part or all of the services it has been appointed by the Client to carry out. It is subject to the terms and conditions of that appointment.

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<b>2.0</b>	<b>RESPONSE .....</b>	<b>1</b>

## 1.0 Introduction

This Technical Note provides a response to Mid Sussex District Council's appraisal of Site 1002, Land South of Huntsland, Turners Hill Road, Crawley Down, included within Site Selection Paper 3: Appendix B (February 2020, last updated 03/08/2020). It also takes account of the appraisal of Site 688 which is a wider area of land within which Site 1002 sits.

It should be read in conjunction with the Preliminary Landscape and Visual Opinion previously prepared by SLR (8<sup>th</sup> May 2019) which is appended.

Detail of the scoring system used for the Site Selection is provided in "Site Allocations Development Plan Document", "Site Selection Paper 2 - Methodology for Site Selection" (December 2018, last updated 03/08/2020) in Section 3, p7, as per below:

8) Landscape Capacity/Suitability (for sites not in AONB)	
<p><i>"Planning policies and decisions should contribute to and enhance the natural and local environment by... protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils... recognising the intrinsic character and beauty of the countryside" (NPPF 2018, para 170)</i></p> <p>Source: Capacity of Mid Sussex District to accommodate development (LUC, 2014), SHLAA: Review of Landscape and Visual Aspects of Site Suitability (LUC, 2015), Landscape Capacity Update (TBC), High Weald AONB Unit Assessments, South Downs National Park Authority Assessments</p> <p>Assessment Notes: Conclusions are drawn for each site dependent on which Landscape Capacity area they are within (as determined by the landscape capacity studies, based on their assessment methodology) or comments received from specialist advisors.</p>	
Low	Based on landscape evidence, low potential in landscape terms
Low/Medium	Based on landscape evidence, low/medium potential in landscape terms
Medium	Based on landscape evidence, medium potential in landscape terms
Medium/High	Based on landscape evidence, medium/high potential in landscape terms
High	Based on landscape evidence, high potential in landscape terms / site is within Built-up Area

## 2.0 Response

### 2.1 Site 1002

Site 1002, Land South of Huntsland, Turners Hill Road, Crawley Down has been scored Low/Medium against Criteria 8 – Landscape. This indicates that *"based on landscape evidence"* the site has a low/medium potential for development *"in landscape terms"*. We acknowledge that the potential for development *"in landscape terms"* has been increased from *low* to *low/medium* potential during the update in February 2020 following the Regulation 18 Consultation.

The MSDC assessment states that, *"The site is in an area identified as having low/medium capacity for development"*. The source used to determine capacity is identified as the *"Capacity of Mid Sussex District to accommodate development"* (LUC, 2014) which, conversely, assessed that the area, within which the site is located, had a *"medium"* capacity for development being an area with no primary constraints and *"less than 4 secondary Constraints with more than 3 Services"*. Table 3 (p77) of the capacity study (LUC, 2014) provides additional information on the capacity of the landscape to accommodate development. Site 1002 is located within the area classified as LCA 3: *Crawley Down Northern Fringe*. This LCA is assessed as having a Substantial Landscape Sensitivity, a Slight Landscape Value and correspondingly a Medium Landscape Capacity for development reflecting LUC's 5 point scale as described in Section 4 of that report.

It is unclear, therefore, why the site has been identified as having a low/medium potential not medium.

The MSDC assessment of Site 1002 goes on to say that, *"This rating indicates that development is likely to have an adverse effect on most of the character area and while smaller development may be possible in a very few*

*locations within the character area, it will not be suitable for strategic scale development*". We note that the site is being assessed for its capacity to accommodate 50 units across 2.5 hectares which would normally be considered *"smaller development"* not strategic. The assessment also states that *"this site is relatively well screened in places by established woodland which will help limit views in from the wider landscape"*. We welcome the recognition of the level of screening provided by established woodland but note that, as a result, it is likely that the potential landscape and visual effects of development would be localised and proposed development would not be likely to have *"an adverse effect on most of the character area"*.

## 2.2 Site 688

Site 688, Land to west of Turners Hill Road, Crawley Down, which includes the smaller area of Site 1002, has been scored Low/Medium against Criteria 8 – Landscape. This indicates that *"based on landscape evidence"* the site has a low/medium potential for development *"in landscape terms"*.

As noted above, the source used to determine capacity is identified as the *"Capacity of Mid Sussex District to accommodate development"* (LUC, 2014) which, conversely, assessed that the area, within which the site is located, had a *"medium"* capacity for development being an area with no primary constraints and *"less than 4 secondary Constraints with more than 3 Services"*. Table 3 (p77) of the capacity study (LUC, 2014) provides additional information on the capacity of the landscape to accommodate development. Site 1002 is located within the area classified as LCA 3: *Crawley Down Northern Fringe*. This LCA is assessed as having a Substantial Landscape Sensitivity, a Slight Landscape Value and correspondingly a Medium Landscape Capacity for development reflecting LUC's 5 point scale as described in Section 4 of that report.

In May 2019, SLR prepared a Preliminary Landscape and Visual Opinion which sought to identify the following:

- the potential capacity for development within the site;
- the potential landscape and visual effects which would result from any development; and
- what mitigation measure might be required.

The Preliminary Landscape and Visual Opinion had regard to the overall area of Site 688 which it appraised as 5 distinct parcels. It included a site assessment, consideration of landscape character and of potential views. It concluded that, provided areas of proposed development were located sensitively within the existing landscape structure, with buffers applied to areas of Ancient Woodland, development could be incorporated with limited landscape and visual effects. Potential landscape and visual effects could be largely contained within the site itself subject to the retention and reinforcement of the existing woodland structure surrounding and across the site. The MSDC assessment notes *"the site's impact on the wider landscape further to the west could have potential to be mitigated through the retention and enhancement of perimeter screening"* which aligns with the conclusions of the Preliminary Landscape and Visual Opinion.

It goes on to note that *"whilst the perimeter screening will help limit views in from the wider landscape, the scale of the site will necessarily require enhancement of the connections to Crawley Down creating a more permeable and open western boundary to the settlement where the current built area interfaces with the site"*. The Preliminary Landscape and Visual Opinion recommended that existing trees and shrubs should be retained as far as possible and that any access point be planted up with new native tree and shrub planting after construction to limit any potential views into the site and maintain the wooded character of the B2082. It was assessed that this would result in very limited, and localised, potential landscape and visual effects within the site itself which would not affect the wider landscape context. An illustrative layout was prepared on behalf of Wates which indicated that this was possible.

In the main, historical assessments of the site have concluded that there is capacity for development (*"Mid Sussex Landscape Capacity Study"* (2007) and *"Capacity of Mid Sussex District to accommodate development"* (2014)). Where capacity has been assessed as more limited (*Mid Sussex District SHLAA: review of Landscape and Visual*



*Aspects of Site Suitability, 2015*) it has been shown that sensitive development, with the retention of the existing woodland structure, would enable development with limited landscape and visual effect.

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## **LAND AT CRAWLEY DOWN**

### **PRELIMINARY LANDSCAPE AND VISUAL OPINION**

**8th May 2019**

#### **1. Objectives**

- 1.1. SLR was instructed by Jordan Van Laun of Wates Developments to provide a preliminary landscape and visual opinion for a site on land to the immediate west of the built up area of Crawley Down, in order to determine:
  - Whether the site has capacity for development in landscape and visual terms;
  - Identification of potential landscape and visual effects should development be proposed; and
  - What mitigation measure might be required.

#### **2. Methodology**

- 2.1. A desk-top appraisal and site visit was undertaken by Emma Jinks of SLR. The desk top assessment included a review of the following:
  - National Character Area Profile 122: High Weald (Natural England);
  - Landscape Character Assessment of West Sussex (2003);
  - A Landscape Character Assessment for Mid Sussex (2005)
  - Mid Sussex Landscape Capacity Study, Hankinson Duckett Associates (2007);
  - Capacity of Mid Sussex District to accommodate development, LUC (2014);
  - The High Weald Area of Outstanding Natural Beauty (AONB) Management Plan 2014-2019 (2014);
  - Mid-Sussex District Council Site Allocations DPD (ID 688);
  - Mid Sussex District SHLAA: Review of Landscape and Visual Aspects of Site Suitability, 2015 (LUC); and
  - Magic website (<https://magic.defra.gov.uk>).
- 2.2. A conceptual masterplan (Ref: 17075/C03H) produced by OSP Architecture was made available and the assessment has focused on areas of development identified on that plan.
- 2.3. The site visit included the site and its immediate context.
- 2.4. Judgements made in this assessment follow the recommendations and terminology of the Guidelines on Landscape and Visual Impact Assessment, Third Edition (GLVIA3, LI/IEMA, 2013). This assessment does not, however, purport to be a landscape and visual impact assessment (LVIA).

#### **3. Landscape Designations**

- 3.1. The site is not designated for landscape or landscape-related reasons. The High Weald AONB lies at a distance of approximately 1.5km to the south of the site.
- 3.2. Public rights of way extend to the north, west (Worth Way) and through the centre (33W) of the site. National Cycle Route (NCR) 21 (part of the Worth Way) extends along the southern boundary of the site.

#### 4. Landscape context: Existing assessments and planning documents

- 4.1. The site is within the High Weald (NCA 122), which is described as a *“ridged and faulted sandstone core of the Kent and Sussex Weald.....an area of ancient countryside and one of the best surviving medieval landscapes in northern Europe”*. It is also noted that the High Weald AONB covers 78 per cent of the NCA, although the site is not within that area. A key characteristic of the High Weald is its *“extensive broadleaved woodland cover with a very high proportion of ancient woodland”*.
- 4.2. The Landscape character assessment of West Sussex (2003), identifies the area within which the site is located as Landscape Character Area (LCA) *“HW1: High Weald”*. This is described as a *“wooded, confined rural landscape of intimacy and complexity within the High Weald AONB”*; we note that the site is not located within the AONB. The assessment notes that the level of woodland cover within the LCA *“limits the visual sensitivity of the landscape and confers a sense of intimacy, seclusion and tranquillity”*.
- 4.3. The Landscape Character Assessment for Mid Sussex (2005) describes the landscape within which the site is located as *“LCA 7: High Weald Plateau”* a landscape which is *“strongly characterised by blocks of woodland with shaws”*, *“woodlands and shaws enclose and conceal small assemblies of assart pastures”*. In a section which describes specific landscape and visual sensitivities, the assessment, in agreement with the West Sussex Landscape Character Assessment (2003), notes that woodland cover limits visual sensitivity and states that *“various woodlands have been developed as suburban woodland estates”*. It is, however, noted that *“much of the area has become increasingly suburbanised through development at Copthorne, Crawley Down, Down Park and Furnace Wood”*.
- 4.4. The Mid Sussex Landscape Capacity Study (2007) the area surrounding the site is described as LCA *“3: Crawley Down Northern Fringe”* which is assessed as having a Substantial Landscape Sensitivity, a Slight Landscape Value and correspondingly a Low/Medium Landscape Capacity for development. The landscape is described as *“mostly small scale fields sloping away from Crawley Down, significant woodland and hedgerow structure provides well defined settlement boundary”*.
- 4.5. A refined capacity study was prepared in 2014, to support the emerging Local Plan, which used the same character areas identified in the 2007 assessment but added five additional areas to increase its coverage (see para 3.5). The revised capacity study layered various constraints using GIS across the study area and assessed each area using a 5 point scale. It concluded that the area within which the site is located had a Medium capacity for development being an area with no primary constraints and *“less than 4 Secondary Constraints with more than 3 Services”* (Figure 6.1).
- 4.6. In 2015 a review of SHLAA sites was undertaken (Mid Sussex District SHLAA: review of Landscape and Visual Aspects of Site Suitability, 2015). The site was assessed (ID 688, see Appendix to Main Report) as having a High overall Landscape Sensitivity and a Medium-High Landscape Value, despite not being designated for landscape or landscape-related reasons.
- 4.7. The higher Landscape Value assessed in the report is partly based on the presence of Ancient Woodland. The Conceptual masterplan indicates that a 15m buffer could be applied to all areas of Ancient Woodland to ensure they were unharmed.
- 4.8. The SHLAA report identifies the presence of woodland in good condition as a key element which increases the assessed Landscape sensitivity. Our understanding of the site indicates that, should the existing woodland structure be retained and reinforced with new native planting, with woodland buffers provided where there are gaps in existing coverage, the overall condition of the woodland would be improved as a result of carefully designed



development which would reduce the sensitivity of this element. The Conceptual masterplan indicates that this would be possible.

- 4.9. The assessment indicates that the overall site has a Low landscape suitability for strategic development (a small area of the site was assessed to have a Low-Medium suitability). This does not reflect the 2014 capacity study which assessed this area to have a Medium capacity for development and, in our judgement, subject to the retention of the woodland structure, the protection of areas of Ancient Woodland and the provision of woodland buffers and green infrastructure links (as shown on the Conceptual masterplan) the site could be developed with limited landscape effects. This was recognised by the Inspector on previous adjacent appeals (Ref: APP/D3830/V/16/3149579).

## **5. Landscape context: Site Assessment**

- 5.1. The site assessment confirmed the landscape characteristics identified in the various published landscape character assessments.
- 5.2. The site is formed by a patchwork of relatively small-scale fields predominantly used for grazing. Fields are formed as clearings surrounded, and separated, by broadleaved woodland. The woodland is extensive and well-established; much of it is categorised as Ancient Woodland. Tracks extending through the site are bounded by both woodland and well-established hedgerow, with few opportunities to obtain longer views out into the wider countryside. Along these tracks there are a number of dispersed, detached residential properties set within large garden plots. The eastern edge of the site connects to B2028; to the north and west the site connects into the wider countryside; the southern boundary of the site is formed by the raised embankment which now forms part of the route of NCR 21 (part of the Worth Way).
- 5.3. The topography of the site is undulating, but generally slopes away from the edge of Crawley Down and a high point of approximately 126m AOD within the site.
- 5.4. All of the published character assessments note that the landscape is well-wooded and the site assessment has confirmed the presence of this key characteristic. The Mid-Sussex Landscape Character Assessment (2005) notes increasing development in the area and the development of “*suburban woodland estates*”. Dispersed built form is already present through the surrounding areas of woodland. The current capacity study (2014) assesses that the landscape has a medium capacity for residential development. It follows that the site has capacity for residential development, but care should be taken to retain the woodland structure which reduces the visual sensitivity of the landscape (increasing capacity) and some of which is categorised as Ancient Woodland which increases its value.
- 5.5. Development may result in some significant effects on the landscape of the site itself e.g. any loss of trees and woodland, the loss of arable fields, but these would be localised, and subject to a full landscape and visual assessment based on a final design. The existing woodland structure ensures that any perception of landscape change would be largely limited to the site and, as such, it is unlikely that there would be an effect on adjacent landscape character areas.

## **6. Visibility and Views**

- 6.1. Potential views may be available from the following visual receptors:
- Vehicle users along the B2028;
  - Walkers and cyclists along PRoW (Worth Way network including NCR 21 and PRoW 33W);
  - Residents in properties along B2082 and dispersed through site; and

- High Weald AONB.

### **Vehicle users along the B2028**

- 6.2. The site assessment confirmed that views from the B2028 would be largely screened by existing woodland and by properties along this route (see Plate I). It is understood that three potential access points have been assessed from a highways perspective. All would access the site from the B2028. Whilst any access point may open up views into a site and increase the level of visibility of any proposed development, the accesses currently proposed would require limited tree loss. Any loss of trees could be mitigated by planting new native tree and shrub, outside of visibility splays, around the entrance once construction was complete.

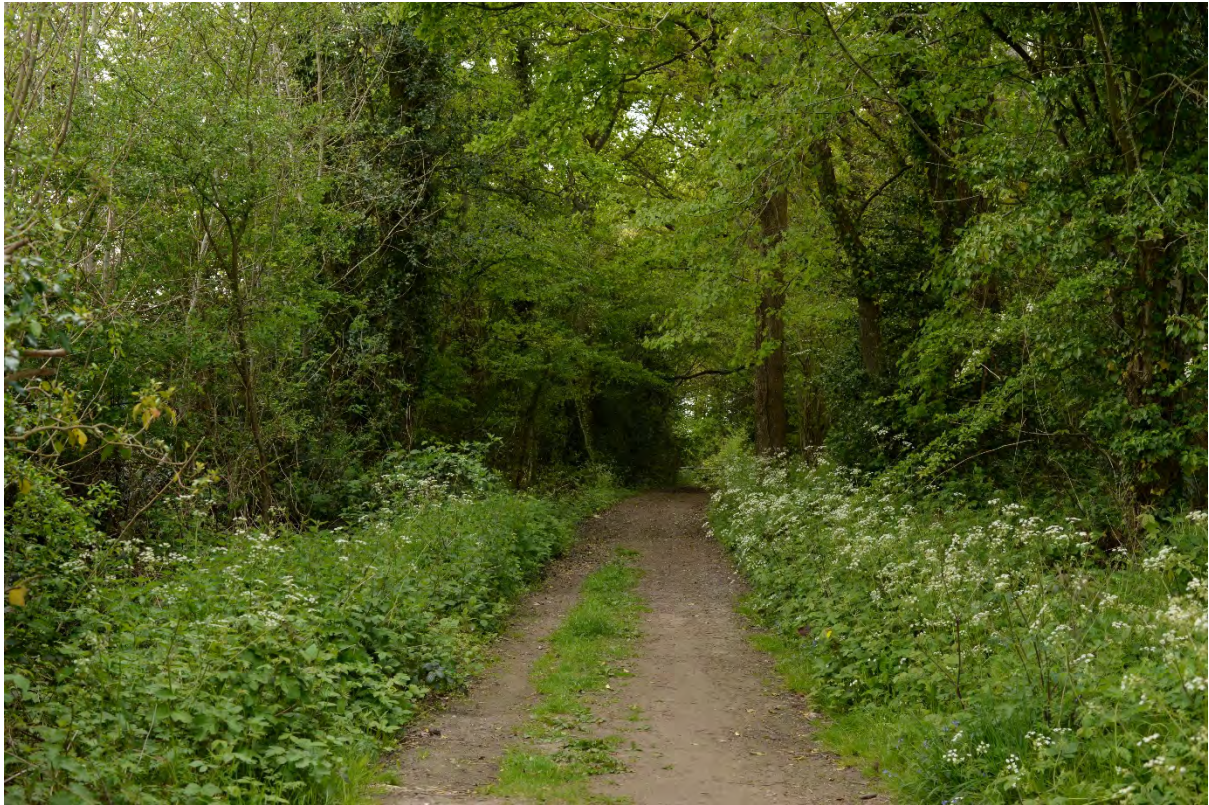


**Plate I: View towards woodland edge which bounds the B2028 and would screen the views of vehicles users towards any proposed development within the site.**

### **Walkers and cyclists along PRow**

- 6.3. A network of footpaths, some included within the Definitive public rights of way map (Worth Way network) and some of which are not formalised, but are well-used, extend through the woodland and both around and across the site.
- 6.4. Views from footpath 33W, which extends through the site, are generally channelled along the route by vegetation and properties which line the route (see Plate II). Views out to the wider countryside are limited. Along part of the footpath, in the vicinity of the site, the views opens up (see Plate III). Care would need to be taken to step the proposed development away from the route to ensure it did not over shadow the footpath. Tree and shrub planting could be provided to either side of the path to filter views towards proposed new homes. It is noted, however, that existing properties are present to either side of the footpath and residential development in not, therefore, uncharacteristic of the view from this footpath.





**Plate II: Views along Footpath 33W channelled along route by trees and shrubs which bound the route.**



**Plate III: More open views along Footpath 33W in the vicinity of proposed development.**

- 6.5. The Worth Way network and various less formalised paths extend around and through the surrounding woodland area. Views from this footpath network are generally well screened or filtered by existing woodland and scrub. In limited areas there may be glimpsed views of proposed development (see Plate IV). In these areas it is recommended that a woodland buffer be planted along the boundary of the site (see areas identified on Figure 1) to gap up existing vegetation and screen potential views.





**Plate IV: Example of glimpsed view through existing woodland into proposed development area.**

- 6.6. Where Worth Way passes north to south, connecting between Footpath 33W and NCR 21 the path is bounded by tall, well-established hedgerows with some mature trees. Views of the upper storeys of any proposed development may be available when walking along this section of the path. It is recommended that development be stepped back from this route and new native tree and shrub planting be provided along this boundary to reinforce the screening effect of existing vegetation (see Plate V).



**Plate V: View along Worth Way where it connects footpath 33W and NCR 21.**

- 6.7. Views towards the site from NCR 21 area largely screened by existing trees and shrubs (see Plate VI)
- 6.8. In limited sections of this route, particularly where it connects back to the B2082 views are more open (see Plate VII) and we would recommend that a woodland buffer be provided along this part of the boundary. We note that the Conceptual masterplan does not propose development in this area.





**Plate VI: Screened views available along NCR 21.**



**Plate VII: Open view available along NCR 21 towards connection with B2082. No development is proposed in this area of the site.**

#### **Residents in properties along B2082 and dispersed through site**

- 6.9. Some rear elevation views may be available to properties along the B2082. These would be screened and filtered through existing woodland and it is unlikely that these would be significant
- 6.10. Oblique views may be available to properties located to either side of footpath 33W and the Worth Way. By retaining and reinforcing existing woodland and by stepping back development from more open area of footpath 33W is likely that potential views would be largely filtered and potential significant visual effects would be limited.

## High Weald AONB

- 6.11. The footpath and road network along the edge of the High Weald AONB was visited during the site visit (e.g. Tulleys Farm). Views towards the site were very limited and were heavily filtered by intervening trees and woodland both on the edge of the AONB, within the intervening landscape and within and adjacent to the site. It is noted that the conceptual masterplan has identified the highest, and most likely to be visible, point within the site for recreational use and we would support that proposal.

## 7. Response to Mid Sussex District Council Site Allocations DPD (ID 688) (2019)

- 7.1. The site is identified as ID 688 Land to the West of Turners Hill Road, Crawley Down in the Mid Sussex District Council Site Allocations DPD. In its assessment the Council rates Landscape as a Medium concern and states:
- 7.2. *"A rating of Medium identifies the landscape character area with the capacity for limited development, in some part of the character areas, having regard for the setting and form of existing settlement and the character and sensitivity of adjacent landscape character areas. As a large strategic extension, this site would need further assessment to assess its landscape impact. There would need to be woodland buffers and consideration of the boundaries of the site and if they are, or can be, made defensible".*
- 7.3. As noted in Section 5 above, the proposed development may have a significant effect on some landscape elements and features, however, these are likely to be limited to the site itself. The conceptual masterplan indicates that areas of existing woodland would be retained and woodland buffers would be provided along boundaries and connecting through the site. By retaining, and reinforcing, the existing woodland structure, any perception of landscape change would be largely limited to the site and, as such, it is unlikely that there would be an effect on adjacent landscape character areas. It has also been noted that dispersed residential properties are present and consented across the site and within the surrounding landscape such that residential development is not uncharacteristic of the existing and future landscape.
- 7.4. The proposed area of development identified on the Conceptual Masterplan are located sensitively within the landscape, ensuring that the existing woodland structure could be retained and reinforced with new planting. Proposed green infrastructure connecting through the site would reinforce the existing character of the landscape.



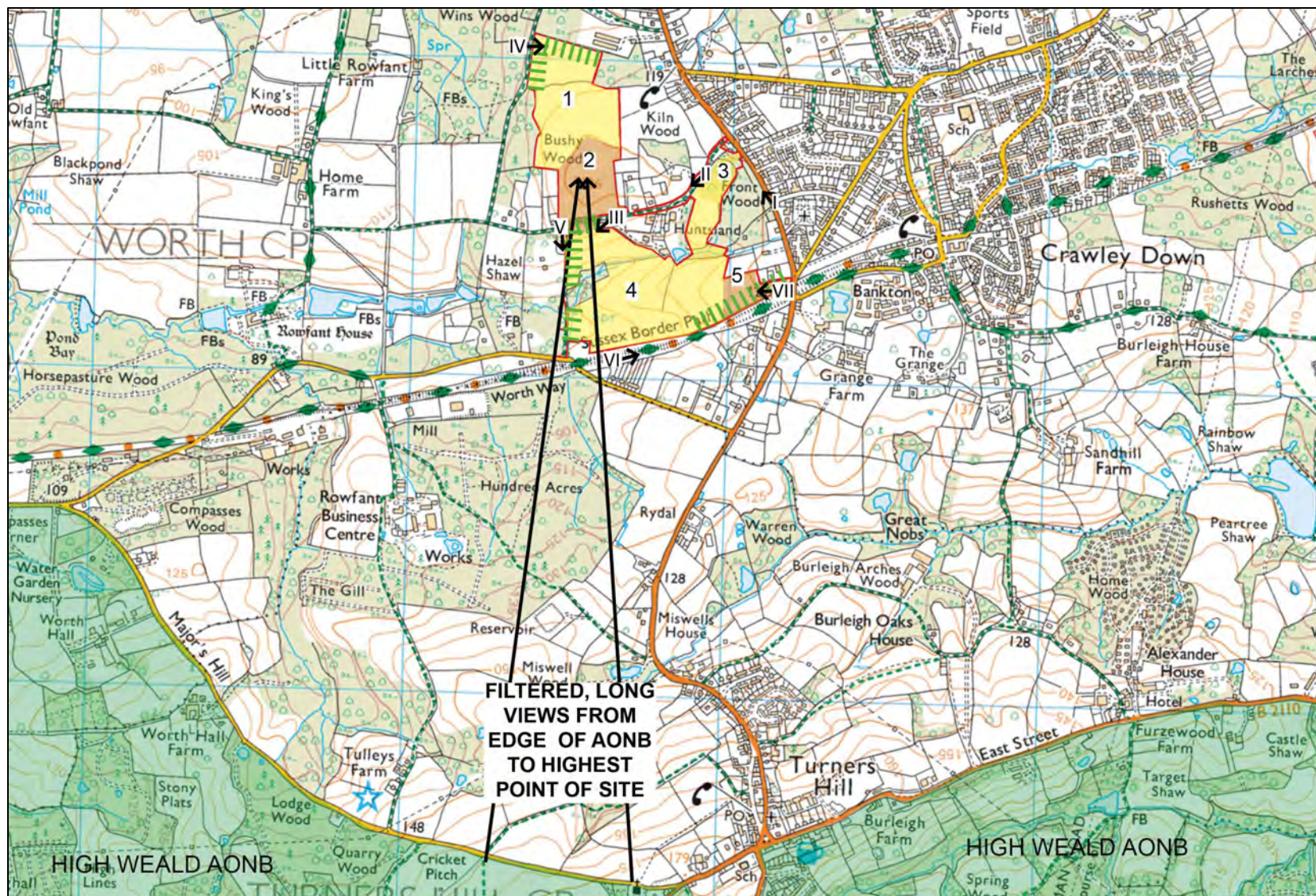


Figure 1: Identification of capacity and recommended woodland buffers

## **8. Recommendations for design and potential mitigation and Conclusions**

8.1. I have roughly marked up the plan above (Figure 1) to identify potential areas for development and our recommendations for the layout as follows:

- Area 1: We have identified that there would be capacity for residential development within this area but have recommended that a woodland buffer be planted along part of the western and the northern boundaries of the parcel (see green hatched line). It is noted that the Conceptual masterplan provides this;
- Area 2: This area is located across the highest point of the site, largely on a plateau. This area is considered more sensitive with the potential for long, but heavily filtered, views from the edge of the High Weald AONB. The Conceptual masterplan identifies this as an area of recreational use and we would support that proposal;
- Area 3: We understand that access may be taken through this area. We would recommend that existing trees and shrubs are retained as far as possible and that the access point is planted up with new native tree and shrub planting after construction is complete to limit potential views into the site through the access and to maintain the wooded character of the B2082;
- Area 4: We have identified this as an area with the capacity for residential development. We note that the Conceptual masterplan identifies an area of open space in the south-western corner of this plot; there is very limited intervisibility between the site and NCR 21 at this point and in our opinion this area could be a further area of residential development subject to the retention of existing trees and woodland boundaries;
- Area 5: There are open views into this area of the site from NCR 21 (see Plate VII). We would recommend that a woodland buffer be planted along this southern and eastern edges of this area to screen views from NCR21 and from the adjacent residential property.

8.2. In summary, I have assessed that there is potential for development within this site in landscape and visual terms, subject to the retention and reinforcement of the existing woodland structure surrounding and across the site. In landscape terms, based in this assessment, the scale of the development could potentially exceed the 300 suggested in the call for sites document.

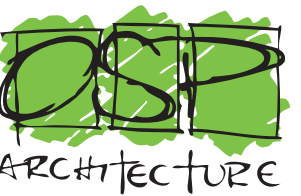
**Emma Jinks BA/MA Hons, Dip LA, CMLI**

**Principal Landscape Architect, SLR Consulting Ltd**



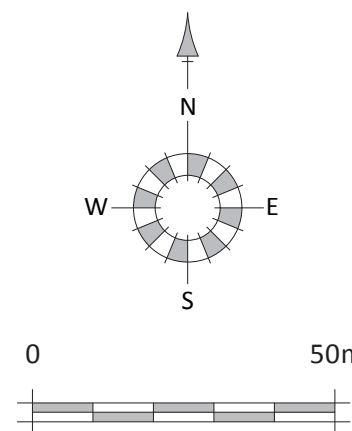


- Key:**
- Ancient woodland
  - 15m buffer to ancient woodland
  - Existing trees, woodland and hedges
  - Planted buffers
  - Landscape corridors
  - Landscaped amenity space
  - Ecology areas
  - Community orchard
  - Allotments
  - Sports pitches/MUGA
  - Play areas: LAP/LEAP/NEAP
  - Potential community use
  - Development parcels
  - Existing properties outside of proposal area
  - Proposals for 30/ 44 dwellings - Approved (ref: DM/15/3614 and DM/15/3979)
  - Application boundary
  - Main roads
  - Pedestrian links/trim trail
  - Potential links to Worth Way
  - Possible junctions with Turners Hill Road



Conceptual Masterplan  
Crawley Down Wider Land  
**17075 / C03L**  
1:2500 @ A1 November 2019





Land South of Huntsland  
Turners Hill Road, Crawley Down

**17075 / SK05A**

Scale 1:1250 @ A0 November 2019

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